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S A.M.—SP—6/73 (4 pp.)

A. I. R. PUBLICATION

THE
A. I. R. MANUAL
UNREPEALED CENTRAL ACTS
(CIVIL AND CRIMINAL)

3rd Edition

BY

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AND

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Chief Editor, "The All India Reporter"

VOLUME 19

STAMP ACT (1899), S. 9
TO
SUCCESSION ACT (1925) S. 210

©

1973

by Publisher

THE ALL INDIA REPORTER LTD.

Registered Office :
Medow House, Nagindas Master Road,
Fort-BOMBAY.

Address for Correspondence :
Post Box No. 209 NAGPUR 12.

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The statute and case-law in this volume is as on 31st July, 1973.

FIRST EDITION 1946.

SECOND EDITION 1959—1962.

THIRD EDITION 1969—

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1ST EDITION

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2ND EDITION

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PREFACE

(Reprinted from Vol. 1)

When the A.I.R. entered the field with the first edition of its "Manual" in the year 1947, it at once leapt to the first rank and carved for itself an unrivalled position in the field of such publications, although it was a newcomer in that particular field. This was due to certain settled principles of the A.I.R. to which it has been adhering steadfastly since its foundation more than 50 years ago. These principles may be summed up in three rules, which the A.I.R. has been having as its watchwords since the beginning: (1) thoroughness, (2) exhaustiveness, and (3) meticulous study of all possible ways by which the usefulness of a publication to the legal profession can be enhanced. All these three principles were given full effect to in the A.I.R. Manual.

2. The publication proved to be the most exhaustive and reliable collection of central statute-law together with all the relevant case-law bearing on it, summarised, arranged and presented in a most conscientious manner with a view to affording the maximum facilities to the legal profession, both on the Bench and at the Bar. These qualities meant very hard work both for the editorial staff engaged by the A.I.R. as well as for the management. But they have built up the reputation of the A.I.R. Manual on a most solid and enduring foundation. This reputation brought correspondingly good results as regards the actual sales of the publication and in a little over 20 years after the A.I.R. entered the field, a third edition of the Manual has become necessary to meet the insistent demand of the legal profession.

3. It is needless to dilate at length, on the special features of the publication. It gives, as in the previous editions, both civil and criminal Acts, and the inconvenient and illogical division into civil and criminal portions has been rejected as in the previous editions. The post-Independence period has been extraordinarily prolific in the matter of legislative output, both at the Centre and in the States. The A.I.R. Manual aims at placing within the reach of the profession, at a reasonable cost, the entire body of central statute-law together with the relevant case-law arranged in a convenient form which has been developed, after patient thought and experimentation, as being the most suitable from the point of view of quick and efficient service to the profession, whenever its members may have to look up a point of law in the statutes of India. Needless to say that our statutes, unlike under the English system, constitute the staple of our law and, therefore, provide the most important and the bulkiest part of our law.

4. In the interval of about 8 years since the completion of the second edition, more than 100 new Acts have been added to the statute book and there have been also a very vast number of amendments and additions to the old Acts. This edition includes all the new Acts and all the up-to-date amendments, besides giving the State amendments also wherever it was possible to trace them.

5. Among the new Acts, special mention may be made of some which are of outstanding importance. Perhaps, the first place in this category will have to be

given to the Limitation Act of 1963 which has taken the place of the Act of 1908 and not only overhauled the entire Law of Limitation but has revolutionised and simplified the law in many respects as, for instance, in regard to suits for possession of immovable property and applications for execution, which were two of the toughest and most confusing topics under the previous Limitation Act. The Advocates Act, 1961, has repealed the Bar Councils Act, 1926, and the Legal Practitioners Act, 1879 and has brought into existence a single unified Bar for the whole of India—which is itself a revolutionary change in the constitution of the Indian Bar and has been looked forward to, for a very long period by the whole Bar as an ideal to be realised.

6. The Arms Act, 1959, is another important Act which, by liberalising the provisions of the Arms Act of 1878 in a marked way, has shown itself to be a product of the post-Independence period. The Income-tax Act of 1961 has overhauled the whole structure of the Income-tax Act, 1922, and made a real attempt at simplification of the provisions of the law. Other Acts of the period also reflect the spirit of the times, each in its own way.

7. Above everything, however, this edition of A. I. R. Manual will be of special value to the Bench and the Bar as perhaps the most exhaustive and up-to-date reference book on the Constitution of India. The period, after the last edition, has witnessed an enormous growth and development of the Constitutional Law of India. Not only have there been a very large number of important amendments of the Constitution during this period but phenomenally voluminous body of case-law which has accumulated on the Constitution.

8. This edition will not only contain the most authoritative version of the Constitution but also the most exhaustive collection of the case-law bearing on it. The subject is so voluminous that no ordinary text-book can be expected to cope with it and do full justice to it. This edition will be found to be practically unequalled as a book of reference on the Constitution of India.

9. All the special features of the previous editions, such as synopsis, "at-paging" of the Reports, etc., are continued in this edition and have also been considerably improved. These special features have been enumerated elsewhere at the beginning of this volume.

10. Before concluding, it is our pleasant duty to place on record our sense of gratitude to all our colleagues without whose unstinted labour and co-operation it would have been impossible to bring out such a vast publication. The editorial work, as can be seen, consists mainly of two branches: (i) that relating to preparing and editing the text of the various Acts, and (ii) the collection and editing of the notes of case-law bearing on the different Acts.

11. The responsibility for preparing and editing the text of the various Acts has been ably shouldered and executed by Sarvashri D. R. Rajandekar, B.A., LL.B., and A. G. Tambe, B.A., LL.B., assisted by Sarvashri P. A. Bakre, B.A., LL.B., H. G. Pathak, B.A., LL.B. and S. G. Kulkarni, B.A., LL.B.

12. The entire credit for organising and managing the editorial work in connection with the case-law must go to Shri V. B. Bakhale, M.A., LL.B., who has been assisted by a band of devoted workers, among whom may be chiefly

mentioned Sarvashri R. G. Dhobley, B.A., LL.B., D. H. Zadgaonkar, B.A., LL.B., K. S. Bakre, B.Sc., LL.B., M. Kuppuswami, B.A., B.L., G. M. Jatar, B.A., LL.B., S. S. Guru, B.A., LL.B., M. V. Joshi, B.A., LL.B., L. G. Chavhan, B.A., LL.B., B. N. Pradhan, B.Sc., LL.B., C. W. Moharir, B.Com., LL.B., D. V. Thakre, B.Sc., LL.B., G. D. Ruikar, B.A., LL.B., Y. P. Baxi, B.A., LL.B., M. N. Thombre, B.A., LL.B., N. N. Harshe, M.A., LL.B., F.I.A. and V. S. Sarma, B.A., LL.B.

13. Shri Gopalrao Udar and his team including among others Sarvashri Govindrao Udar, D. R. Landge, Ku. S. Naidu, Ku. K. G. Deshpande and Ku. S. Deshpande have done the very arduous and responsible work of correcting and passing the proofs and our thanks are due to them for this.

14. Scarcely less important than the work of the editors has been the work of Shri B. R. Abhyankar, who, with his devoted band of workers including Sarvashri M. S. Savarkar, B. R. Katankar, D. P. Alshi, W. J. Joshi, P. N. Deo, G. D. Deshpande, S. M. Lambe, L. S. Wavde and P. N. Murtey and others, has manned the responsibility of preparing the manuscript for the press.

15. Thanks must also be given to Sarvashri M. W. Chitaley, C. R. Banerjee, and G. G. Padhye, M. M. Kanitkar and others of the A.I.R. Rotary Printing Press, who, under the leadership and guidance of Shri J. W. Chitaley, finished the printing of the work in record time.

16. Last, but by no means least, our thanks are due to Shri W. W. Chitaley, B.A., LL.B., who has been in overall charge of the whole undertaking and whose exceptional talents, in organising and managing the business side of the undertaking are of inestimable value for the success of the gigantic undertaking that this publication obviously is.

13th June, 1969.

D.V.C.
S.A.R.

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ERRATA

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Motor Vehicles Act (1939), S. 134, Note 1, Pt. (15)

For the existing citation, at the end of the point *read*

A. I. R. 1966 Pat. 25 (29)=I. L. R. 45 Pat. 735.

A. I. R. MANUAL

UNREPEALED CENTRAL ACTS

(CIVIL & CRIMINAL)

VOLUME XIX

[THE INDIAN] STAMP ACT, 1899

CHAPTER II (contd.)

STAMP DUTIES (contd.)

B.—Of Stamps and the Mode of using them

10. Duties how to be paid.—(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto—as the *[State Government] may by rule direct.

(2) The rules made under sub-section (1) may, among other matters, regulate,—

(a) in the case of each kind of instrument—the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;

(c) in the case of bills of exchange or promissory notes †[* * *]—the size of the paper on which they are written.

[1879—Section 9; 1869—Sections 5 (b), 49, 50; 1862—Sections 4, 7; 1860—Section 4.]

[*] Substituted for the words "collecting Government" by A.L.O., 1950.

Section 10 — Note 1

(1) Rules under this section must be limited within and confined to the purposes of this section. (1890) 13 All 66 (71, 72) (FB).

(2) Rule 4 of Indian Stamp Rules, 1925, specifically deals with the mode of stamping hundis. The following are cases bearing on this rule:—

(a) Hundi payable otherwise than on demand and hence chargeable with a duty of more than one anna cannot be stamped with an adhesive stamp. (1880) 2 Mad 173 (174) (DB) °° (1882) 3 Cal 721 (723) (DB).

(b) As provided by R. 5 of the Stamp Rules, a hundi paper may also be used for writing promissory notes and bills of exchange. AIR 1919 Cal 235 (238) (DB).

(c) Promissory note which may be stamped with an adhesive stamp of one anna cannot be regarded as not duly stamped if it is written on a hundi paper of a larger value. 1885 All WN 317 (318) (DB).

(d) Promissory note payable at more than one year after date need not be stamped and written as provided by Cl. (b) of R. 4 (1) —It is duly stamped if it is written on paper bearing impressed stamp. AIR 1934 Pesh 1 (2) (DB).

(e) Bill of exchange written on three sheets of stamp paper of the requisite value will be held to be duly stamped in view of R. 7 (1). AIR 1919 Cal 235 (238) (DB). [Note.—According to R. 4 (3), provisions of R. 7 (1) apply also to hundis. Hence, a hundi can be written on two or more sheets of hundi stamp paper.

(3) Pasting of the stamp papers in order to reach the requisite denomination cannot be contrary to the requirements of the Stamp Act and the Rules. (1972) 1 Cut WR 41 (46).

[†] The words "written in any Oriental language" were omitted by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 5 (with effect from 1-4-1956).

STATE AMENDMENT

Meghalaya:

After Section 10. insert the following section, in its application to Meghalaya, namely:—

"**10-A.** Notwithstanding anything contained in section 10 where—

(a) (i) the State Government, in relation to any area in the State, or

(ii) the Deputy Commissioner, in relation to any area in the district under his charge,

is satisfied that on account of temporary shortage of stamps in any area, duty cannot be paid, and the payment of duty cannot be indicated on instruments, by means of stamps, the State Government, or, as the case may be, the Deputy Commissioner may, by notification in the Official Gazette, direct that. in such area and for such period as may be specified in such notification, the duty may be paid in cash in any Treasury or Sub-Treasury and shall, on production of a challan evidencing payment of Stamp duty in the Government Treasury, certify by endorsement on the instrument in respect of which the stamp duty is paid, that the duty has been paid, and state in the said endorsement the amount of the duty so paid.

(b) An endorsement made on any instrument under clause (a) shall have the same effect as if the duty of an amount equal to the amount stated in the endorsement had been paid in respect of, and such payment has been indicated on, such instruments by means of stamps, under section 10."—Megha. Act VI of 1973, Section 2 (24-3-1973).

11. Use of adhesive stamps.—The following instruments may be stamped with adhesive stamps, namely:—

(a) instruments chargeable *[with a duty not exceeding ten naye paise] except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange †[°] and promissory notes drawn or made out of ‡[India];

(c) entry as an advocate, vakil or attorney on the roll of a High Court;

(d) notarial acts; and

(e) transfers by endorsement of shares in any incorporated company or other body corporate.

[1879—Section 10; 1869—Section 5 (a); 1862—Sections 5, 6; 1860—Section 5.]

[°] Substituted for the words "with the duty of one anna or half an anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 2 (1-10-1958).

Section 10 — Note 1 (contd.)

(4) After the amendment to the Madhya Pradesh Stamp Rules by notification dated 26th June 1970, stamp marked "India" or "Bharat" would in all respects be deemed to have been issued by the State Government. Section 10 provides that the stamping should be governed by what the Act provides and where it is silent, by the rules framed by the State Government. Therefore, the argument that the rules are ultra vires is altogether unacceptable. 1971 Jab LJ 680 (682).

(5) Madhya Pradesh Stamp Rules, 1942, Rule 3 — Stamp affixed to promissory note bearing the word "Bharat" not indicating that it was issued by State Government — Promissory note is not invalid. AIR 1973 Madh Pra 8 = 1972 MPLJ 616 (617).

Section 11 — Note 1

(1) Use of the word "may" does not make obligatory but permits the use of adhesive stamps in the case of instruments mentioned in the various clauses of the section and such instruments may be legally written on impressed stamp papers also. 1885 All WN 317 (318) (DB) °° AIR 1968 Raj 45 (46) = 1967 Raj LW 240.

(2) Bill of exchange (not being a bond, bank note or currency note) payable otherwise than on demand and drawn singly does not come under Cl. (a) of this section and cannot be stamped with an adhesive stamp. (1880) 2 Mad 173 (173, 174) (DB). (Bill of exchange payable otherwise than on demand and drawn or made in British India cannot be stamped with adhesive stamps.) °° (1882) 8 Cal 721 (723) (DB).

[†] The word "cheques" was omitted by the Indian Finance Act, 1927 (V of 1927), Section 5.

[‡] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

Note.—Word "may" in this section is indicative of the provision not being mandatory and is only permissive: In clause (b) a comma should be added after the words "promissory notes" to make the meaning more clear.

STATE AMENDMENTS

Andhra Pradesh:

In its application to the State of Andhra Pradesh, in clause (a) of Section 11, for the words "ten naye paise", substitute the words "twenty paise".—Andh. Pra. Act X of 1967, Section 3 (2) (20-10-1967).

Goa, Daman and Diu:

In its application to the Union territory of Goa, Daman and Diu, in Section 11,—

(a) in clause (a), for the words 'ten naye paise', substitute the words 'twenty paise'; and

(b) omit clause (c).—Goa, Daman and Diu Act VIII of 1969. Section 7 (1-7-1969).

Tamil Nadu:

In its application to the whole State of Tamil Nadu, clause (a) of Section 11 reads as follows, namely:—

"(a) instruments chargeable with the duty of twenty paise, one anna or half an anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;".—Mad. Acts XVI of 1943, Section 4 (b) (1-10-1943) read with XIV of 1958, Sections 6 and 18 (1-10-1958); VIII of 1962, Section 4 (2) (10-9-1962).

Uttar Pradesh:

In its application to the State of Uttar Pradesh, in Section 11,—

(a) in clause (a), for the words 'ten naye paise', substitute the words 'twenty paise'—U. P. Act XXV of 1962, Section 5 (1-1-1963);

(b) for clause (c), substitute the following:—

"(c) certificate of enrolment under section 22 of the Advocates Act, 1961, issued by the Bar Council of Uttar Pradesh."—U. P. Act X of 1971, Section 2 (18-1-1971)

12. Cancellation of adhesive stamps.—(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any per-

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SECTION 12 — SYNOPSIS

1. Scope.
2. Sub-section (1).
3. Sub-section (3).
4. Time of cancellation.
5. Sub-section (2).
6. Effect of due cancellation.
7. Presumption as to stamp.

1. Scope.—(1) Object of cancellation of adhesive stamps is to prevent the same stamps from being used more than once. AIR 1934 Lah 606 (606) ** AIR 1936 Oudh 176 (176) (DB) ** AIR 1938 Lah 505 (506).

2. Sub-section (1).—(1) Receipt to a salary bill of a Government servant is not an instrument contemplated by sub-section (1) (a). (1887) 9 All 210 (212).

(2) The stamps on the instruments of transfer of shares of a company are to be cancelled in accordance with the provisions of Section 12, Stamp Act. AIR 1961 Cal 528 (529) ** AIR 1961 Punj 123 (124) = ILR (1961) 1 Punj 1.

3. Sub-section (3).—(1) Sub-section merely serves as guide and indicates one of the modes in which cancellation may be done in an effectual manner. AIR 1938 Lah 505 (506) ** (1904) 28 Bom 432 (433) (DB). (To prevent same stamps from being used again, it is necessary that used stamp should bear on it some effective mark to show that it has been used.) ** AIR 1936 Oudh 176 (176) (DB).

(2) Words "so that it cannot be used again" occurring in sub-sections (1) and (2) do not imply such a degree of cancellation as would make it physically impossible for any dishonest person to make a fraudulent use of the stamp again. AIR 1928 Bom 80 (89) ** AIR 1938 Lah 505 (506) ** AIR 1937 Rang 408 (410) = 1937 Rang LR 127 ** AIR 1942 Sind 130 (131, 132) = ILR (1942) Kar 56 (DB). (Mere writing of a date in form of figures on face of stamp is effectual cancellation.) ** (1912) 15 Oudh Case 58 (60, 61) ** AIR 1921 Sind 77 (77) = 15 Sind LR 34 (DB).

son shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other° effectual manner.

[1879—S. 11; 1869—Ss. 31, 33; 1862—Ss. 8, 11; 1860—Ss. 6, 9.]

[°] There is no indication what other method of cancellation is meant by this word. So long as the purpose of cancellation is avoidance of using the stamp again, it should suffice that some lines or other mark are put on the stamp to indicate that it has been used. Putting one's signature is as good or bad as putting some kind of mark as both can equally be erased.

Section 12 — Note 3 (contd.)

(3) True test for determining whether an adhesive stamp has been effectually cancelled is whether an ordinary conscientious man would come to the conclusion that it had already been used so as to preclude him from using it again. AIR 1937 Rang 413 (415). (This question is one purely of fact.) °° AIR 1921 Sind 77 (77) = 15 Sind LR 34 (Do.) °° AIR 1925 Rang 209 (210) = 3 Rang 39 (Do.) °° AIR 1919 All 196 (199) = 41 All 169 (DB). (Do.) °° AIR 1942 Sind 130 (131, 132) = ILR (1942) Kar 56 (DB) (Do.) °° AIR 1937 Rang 408 (410) = 1937 Rang LR 127 (Do.).

(4) The question whether or not a particular document has been effectively cancelled is a question purely of fact to be decided on an examination of the stamp in each particular case. AIR 1961 Raj 43 (44) = ILR (1960) 10 Raj 808 °° AIR 1963 Andh Pra 442 (444, 445) = (1963) 1 Andh LT 213.

(5) Drawing of one line or two or more parallel lines across the face of an adhesive stamp is an effectual cancellation. AIR 1921 Sind 77 (77) = 15 Sind LR 34 (DB) °° AIR 1937 Rang 408 (410) = 1937 Rang LR 127 °° (1912) 15 Oudh Cas 58 (61) (DB) °° AIR 1921 Lah 120 (120) (DB) °° 1908 Pun Re No. 108, p. 498 (500) °° AIR 1928 Bom 80 (89) °° AIR 1963 Andh Pra 442 (444, 445) = (1963) 1 Andh LT 213 °° AIR 1963 Andh Pra 378 (378, 379) = (1963) 1 Andh LT 223.

[But see (1904) 28 Bom 432 (433) (DB) °° (1912) 23 Mad LJ 273 (274).]

(6) Drawing of two lines crossing each other, across the face of a stamp is an effectual cancellation. AIR 1928 Bom 80 (89) °° AIR 1961 Raj 43 (44) = ILR (1960) 10 Raj 808 °° AIR 1925 Rang 209 (210) = 3 Rang 39 °° AIR 1935 Lah 716 (717) (DB) °° AIR 1920 Lah 874 (375) = 1919 Pun Re No. 148.

(7) Mere writing of the name or initials of the person cancelling the stamp would amount to an effectual cancellation even though the date of cancellation is not written on the stamp. AIR 1936 Oudh 176 (176) (DB) °° AIR 1938 Lah 505 (506) °° (1906) 3 All LJ 326 (327).

(8) Person executing document illiterate — Writing of name of executant on his behalf and under his direction by scribe on adhesive stamp is sufficient compliance with section. AIR 1931 All 57 (57) = 52 All 489.

(9) Affixed on promissory note one stamp duly signed on — Only impression of other stamp alleged to be missing and cancelled by single line — Held, that even assuming that pronote had such stamp it could not be deemed to be duly cancelled. AIR 1934 Rang 364 (365).

(10) Stamp on instrument bore only small part of first letter of executant's signature consisting of slightly curved line — Held, that there was no sufficient cancellation. (1890) 14 Bom 102 (111) (DB).

(11) Where several adhesive stamps which together make the required amount of stamp duty chargeable on a document, are affixed to it, all such stamps should be cancelled in an effectual manner. AIR 1940 Oudh 308 (309) °° AIR 1937 Rang 408 (410, 411) = 1937 Rang LR 127 °° AIR 1929 Rang 270 (271).

4. Time of cancellation.— (1) Where a promissory note is signed first and the stamp is affixed and cancelled immediately after the signature, the stamping and cancellation must be deemed to be made at the time of execution. (1901) 24 Mad 259 (261) (DB).

(2) Where a promissory note was executed by A and B, a stamp was affixed afterwards and was cancelled by A by again signing on it, it was held in the case cited that the stamping must be held to have taken place subsequent to the execution and therefore it cannot be said that the promissory note was stamped before or at the time of execution. AIR 1956 Bom 421 (423) (DB). (24 Mad 259, Criticised).

5. Sub-section (2).— (1) Document chargeable with duty bearing stamp not cancelled at all or not cancelled in effectual manner — Document will be deemed to be unstamped and by virtue of Section 35, it will be inadmissible in evidence as not being duly stamped. AIR 1921 Pat 318 (319) °° (1903-04) 2 Low Bur Rul 103 (104) °° AIR 1932 Mad 693 (695) °° (1912) 1912 Pun LR No. 169, p. 543 (546) (DB) °° (1912) 14 Ind Cas 512 (512) = 1912 Pun Re No. 18 °° AIR 1926 All 359 (359) = 48 All 332 °° (1906) 28 All 298 (22, 300) (DB).

13. Instruments stamped with impressed stamps how to be written.— Every instrument written upon paper stamped with an impressed stamp shall be written in such manner* that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

[1879—Section 12.]

[*] Does this mean that the instrument must commence on the side on which the stamp is impressed? Would an instrument written on the reverse side be illegal? Would the use of two or more stamp-papers of relevant value render the instrument bad?

Section 12 — Note 5 (contd.)

(2) Several adhesive stamps which together make required amount of stamp duty chargeable on document affixed to it — If one of stamps is not cancelled, document will be regarded as unstamped so far as such stamp is concerned and will be inadmissible in evidence for insufficiency of stamp. AIR 1940 Oudh 308 (309) ** AIR 1937 Rang 408 (410, 411) = 1937 Rang LR 127 ** AIR 1937 Rang 413 (415) ** AIR 1934 Lah 606 (607 (DB) ** AIR 1933 Lah 148 (149) (DB).

(3) Where a document bears an adhesive stamp and the stamp is cancelled not at time at which it is required to be cancelled under sub-section (1) but is cancelled subsequently, the document cannot be regarded as unstamped. AIR 1937 Pat 73 (75) = 16 Pat 84 (DB) ** AIR 1937 Rang 392 (394) = 1937 Rang LR 196. (Burden of proving that cancellation was made at date later than that of execution is on party who alleges it.)

[But see AIR 1925 Bom 520 (520) (DB).]

(4) Where adhesive stamps have been affixed to the instruments of transfer of shares but they have not been cancelled, the instruments are not "duly stamped" within S. 108, Companies Act (1956) and the company is justified in refusing registration of shares. AIR 1961 Cal 528 (529).

(5) Where the transfer-certificates of shares executed in favour of the Government are stamped but the stamps are not cancelled, then under Section 12 the certificates must be deemed to be unstamped and consequently the transfer cannot be held to be complete. AIR 1961 Punj 123 (124) = ILR (1961) 1 Punj 1 ** (1970) 2 Com LJ 200 (257) (Bom).

6. Effect of due cancellation.—(1) Once an instrument is admitted in evidence, no objection as to its admissibility can be raised at any stage of the same suit or proceeding. AIR 1937 Pat 73 (74) = 16 Pat 84 ** (1912) 15 Oudh Cas 58 (61) ** (1908) Pun Re No. 108, p. 498 (500) ** (1963) 2 Andh WR 176 (178).

(2) Promissory note admitted in evidence in ex parte trial — Its admissibility can be questioned in de novo trial commenced after setting aside of ex parte decree. (1912) 23 Mad LJ 273 (275).

7. Presumption as to stamp.—(1) Hundi lost — Presumption arises that stamp was duly cancelled. AIR 1930 Sind 4 (8).

(2) Where it appears that an instrument has been stamped, but the stamp is obliterated, it may be presumed to have been of sufficient amount. (1842) 3 QB 687 (689) = 12 LJQB 36.

Section 13 — Note 1

(1) Section does not itself prohibit writing on the reverse side. **(1881) 5 Bom 188 (194) (FB).**

(2) Though writing on the back side of the stamp paper is not prohibited by the section, the use of the side which bears the stamp is favoured. **(1884) 7 Mad 176 (181) (FB).**

(3) Where a bill of exchange is written on three stamp papers aggregating to the full stamp duty payable thereo , it is duly stamped AIR 1919 Cal 235 (238 DB).

(4) Instrument offending against the rule which is to be regarded as art of the Act cannot be said to be duly stamped. AIR 1914 Mad 358 (358).

[See however (1879) 13 Suth WR 41 (43) (DB).]

(5) Decree not drawn upon non-judicial stamp — Decree can be validated with retrospective effect from date when it was originally drawn up by attaching stamp paper subsequently supplied by decree-holder, to decree already drawn up after defacing it and writing cause-title and names of parties on it. (1910) 12 Cal LJ 324 (327) (DB) ** AIR 1935 Cal 125 (125) (DB).

(6) Unstamped instrument cannot be admitted in evidence or acted upon under Section 35. AIR 1914 Mad 358 (358) ** AIR 1929 All 254 (255) = 51 All 530 (DB) ** AIR 1921 Pat 317 (317) (DB) ** 1886 Pun Re No. 73, p. 157 (158) (DB).

(7) By paying the duty and the penalty the instrument may be duly stamped and made admissible in evidence. **(1885) 8 Mad 532 (540) (FB).**

(8) Instrument admitted by lower Court — Question as to its admissibility cannot be raised in appeal. AIR 1932 Lah 582 (582) = 13 Lah 800.

(9) A composite document consisting of a sale deed and a deed of release was executed by one K. The stamp required on the sale deed and the deed of release was of the value of Rs. 403-2-0. The Treasury supplied the stamp in ten sheets. Several sheets were used up in writing out the contents of the documents. Three sheets remained. They were utilised by defacing the stamp with a cross and by the parties to the transaction putting their signatures on them. On the seventh sheet on which the body of the document ended, was mentioned the fact that ten sheets formed part of the document. Each of the three remaining sheets on which there was the cross and the signatures of the parties also showed that they were part of the sale deed executed by K. They also bore the same number "15" as was given to the rest of the seven sheets. It was held that the three sheets could be considered to have been used as directed by Section 13, Stamp Act and R. 7 of the Stamp Manual. AIR 1955 All 634 (634) (DB) ** (1972) 1 Cut WR 41 (47).

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14. Only one instrument to be on same stamp.—No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:*

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

[1879—Section 13.]

[*] The provision is mandatory and the second instrument would be deemed to be unstamped, attracting the provisions of Section 35—See Section 15 infra.

SECTION 14 — SYNOPSIS

1. "No second instrument."
2. Alteration of document.
3. Document altering terms of prior document.
4. Endorsements upon instruments.

1. "No second instrument".—(1) Deed of release endorsed on back of deed of conveyance — Conveyance bore sufficient stamp — Release unstamped — Release held could only be admitted in evidence by payment of deficient stamp duty and penalty. (1888) 11 Mad 40 (41) (FB). (Second instrument written in contravention of this section shall be deemed to be unstamped — First instrument remains perfectly unaffected.)

(2) Endorsement on the back of a sale deed by which A sold property to B, showing that the property had been transferred to C, was held to amount to a conveyance of property and was inadmissible in evidence for want of stamp. AIR 1942 Pesh 43 (44).

(3) Endorsement of transfer written on the back of a simple money bond requires stamp. (1893) 17 Bom 687 (688) (FB).

(4) Bond engrossed on stamp paper of sufficient value — Contract of principal written first and after his signature followed contract of surety signed by latter — Deed held not open to objection under this section. (1881) 5 Bom 188 (191, 193) (FB).

(5) A, Hindu widow, passed to B, document on plain paper granting B annuity charged on revenues of certain village — A then adopted C and latter made endorsement on deed to the effect that he consented to act according to sanad — Instrument held should be stamped with single stamp as gift. (1883) 7 Bom 194 (196) (FB).

2. Alteration of document.—(1) Material alteration of instrument by one party thereto without the consent of the party or parties liable thereunder vacates the deed. (1882) 9 QBD 555 (561) ** AIR 1955 Mad 591 (593) (DB). (Where an agreement of sale of property, containing a recital relating to time being of the essence of contract, is mutilated by this portion being scissored off with the intention of making a material alteration with a view to prejudice the executor of the agreement, this fact by itself is sufficient to render the agreement void irrespective of the consideration whether the mutilation is really material or not. AIR 1940 PC 160; (1791) 100 ER 1942 = 4 TR 820 and (1882) 9 QBD 555, Rel. on) **(1882) 24 RR 522 (526) = 106 ER 1337.

(2) Policy of law is that man shall not take chance of committing fraud and when that fraud is detected recover on instrument as it originally stood. (1936) 14 Rang 29 (37) (DB).

(3) Material alteration of deed with the consent of all parties thereto — Deed is not avoided. (1936) 14 Rang 29 (37) (DB).

(4) Effect of the material alteration with consent of both parties to deed is to make it in substance a new instrument rendering a new stamp necessary. AIR 1919 Low Bur 45 (45).

(5) Pronote — Amount of principal and rate of interest changed on subsequent advance — Alteration represents two distinct transactions and is in contravention of this section. AIR 1928 Rang 263 (264).

(6) Writing on an instrument may not amount to an alteration of the instrument itself. (1936) 14 Rang 29 (41) (DB). (Whether instrument itself has been altered is question of fact and whether alteration is material one is question of law.) ** (1836) 150 ER 419 (421) = 5 LJ Ex 143 ** (1857) 65 RR 395 (396, 397) = 26 LJ Ex 314.

(7) No alteration in an endorsement on the instrument, which forms no part of the instrument, will render a new stamp necessary. AIR 1928 PC 231 (233, 234) = 52 Bom 589 = 52 Ind App 353.

(8) In the case of a bill of exchange or a promissory note, the burden of proving that the alteration has not rendered a new stamp necessary, lies on the party relying on the instrument. (1838) 47 RR 563 (567, 568) = 7 LJQB 144 °° (1827) 33 RR 646 (648) = 6 LJKB 334.

(9) In instalment mortgage bond, condition making whole sum payable upon default in payment of any instalment inserted after its execution and rate of interest doubled — Alterations held material. (1883) 9 Mad 499 (411, 412, 413, 418) (FB).

(10) Date on surety bond altered after it was complete — Alteration held material. AIR 1926 Bom 491 (492) (DB).

(11) Date on money bond altered after it was executed — Deed held altered in material part. (1889) 12 Mad 239 (240, 241) (DB).

(12) Alteration of the date of a bill of exchange, after issue, is a material alteration requiring new stamp. (1812) 104 ER 900 (902) = 15 East 412 ** (1807) 170 ER 883 (884).

(13) Correction of a clerical error in the date of a promissiry note is not a material alteration. AIR 1927 Cal 612 (613, 614).

(14) Bond originally executed for Rs. 70 altered when in plaintiff's possession to bond for Rs. 100 — Alteration held material. AIR 1923 Nag 295 (295) = 19 Nag LR 79

(15) After execution and attestation but before registration of mortgage bond certain lines found

15. Instrument written contrary to section 13 or 14 deemed unstamped.—Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.*

[1859—Section 14.]

[*] These are the only two sections which lay down that an instrument otherwise duly stamped are to be deemed as unstamped. It is the second instrument that is rendered invalid under Section 14. However, see Sections 35 and 40 infra which empower the Collector to validate such instruments under certain circumstances and situations. See also Section 16 infra.

16. Denoting duty.—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument by endorsement under the hand of the Collector or in such other manner (if any) as the *[State Government] may by rule prescribe.

[1879—Section 15; 1869—Schedule II, Art. 16, Proviso; 1862—Schedule A, Art. 8.]

[See Section 4 supra and Arts. 25, 30, 35, 45 and 58 of Schedule.] Proviso and Art. 37.]

[*] Substituted for "collecting Government" by A.L.O., 1950.

Section 14 — Note 2 (contd.)

interpolated, containing stipulation as to payment of compound interest — Alteration held material. AIR 1926 Cal 831 (831, 833, 834)= 53 Cal 418 (DB).

(16) Alteration, after execution in the rate of interest payable under a mortgage bond to carry out the original intention of the parties, is not a material alteration. AIR 1917 Cal 811 (811, 812) = 44 Cal 154 (DB).

(17) Mutilation of a promissory note, which causes the words "or order" to disappear from the note, is a material alteration. AIR 1916 Mad 284 (285, 286) = 38 Mad 746 (DB).

(18) Insertion of the name of a second arbitrator in reference to arbitration before the sole arbitrator named had accepted the reference was held to be no material alteration requiring a new stamp, as the reference was incomplete. AIR 1914 Sind 90 (92) = 8 Sind LR 302.

(19) Alteration in the names of attesting witnesses in a mortgage deed, which did not require attestation, was held not to be a material alteration. (1886) 12 Cal 313 (316, 317) (DB). (7 Bom 418, Dissented from.)

(20) Where an agreement of sale of property containing a recital relating to time being of the essence of contract is mutilated by this portion being scissored off this fact is sufficient to render the agreement void. AIR 1955 Mad 591 (593) (DB).

(21) The subsequent affixation of stamps on a promissory note without the consent of the executant of the document and the cancellation of these stamps by putting forged signature of the executant for the purpose of making the document admissible in evidence are in the nature of material alteration. AIR 1959 Raj 96 (97) = ILR (1958) 8 Raj 1178.

(22) Ordinarily the subsequent attestation of a document without consent of the executant of the document may not amount to material alteration if such document is not required by law to be attested. But if the purpose of the attestation is to obviate some difficulty in a Court of law, then such attestation may amount to material alteration. AIR 1959 Raj 96 (97) = ILR (1958) 8 Raj 1178.

(23) Alteration in deed — Presumption is that the alteration was made prior to the execution of the deed. AIR 1955 Nag 116 (119) = 1955 Nag LJ 258 (DB).

3. Document altering terms of prior document.—(1) Recording oral agreement to vary the terms on the original instrument renders the instrument in no way void or liable to be stamped afresh. (1936) 14 Rang 29 (40) (DB).

4. Endorsements upon instruments.—(1) Endorsement chargeable with duty and not duly stamped — Endorsement will be in contravention of principal clause of this section and it must be deemed to be unstamped under S. 15. (1892) 17 Bom 687 (688) (FB) ** (1888) 11 Mad 40 (41) (FB) ** (1889) 13 Bom 281 (284, 285) (FB).

Section 15 — Note 1

(1) Instrument which is to be deemed to be unstamped under this section is not admissible in evidence under Section 35. AIR 1919 Low Bur 45 (45) ** AIR 1928 Rang 263 (264) ** (1892) 17 Bom 687 (688) (FB). (Defect can be remedied by paying necessary duty and penalty under provisions of Chapter IV.)

Section 16 — Note 1

(1) **Held** on facts that Article 35 (c) of the Act (as amended in Madras) was not applicable as the lease contained clauses by which the parties entered into a contract contrary to the statutory rights and obligations. AIR 1970 Mad 288 = (1970) 1 Mad LJ 417 (FB).

C.—Of the Time of stamping Instruments

17. Instruments executed in India.—All instruments chargeable with duty and executed† by any person in °[India] shall be stamped before or at the time of execution.‡

[1879—Section 16; 1869—Section 28; 1862—Section 18; 1860—Section 13 (6).]

[°] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

[†] For meaning see Section 2 (12) supra.

[‡] The Act, however, contains some provisions which allow validation of certain instruments under certain circumstances, e.g., see Sections 31, 35, 40, 41 and 47. The rule in this section is universally applicable and every instrument, if stampable at all, must be stamped as soon as it has any legal effect subject to the statutory provisions as to after stamping with or without penalty—See 1965 (3) WLR 924= 1965 (1) All ER 917.

Section 17 — Note 1

(1) Promissory note executed at Rampur State by person in favour of Nawab of Rampur on unstamped paper — Suit on promissory note filed in British India against heirs of executant residing in British India — Note stamped by plaintiff's pleader with one-anna stamp of British India before it was filed in Court — Note held admissible in evidence. (1911) 33 All 571 (577) (DB).

(2) When a cheque is tendered in evidence with a one-anna stamp upon it, it is 'stamped' even though it may be post-dated. (1904) 6 Bom LR 699 (702, 703). (Post-dated cheque is only cheque for Stamp Act and not bill of exchange.)

(3) 'At the time of execution' in Section 17 does not mean before the signing of the document by the executant. If an instrument is stamped immediately after it is signed and attested and the stamping forms part of the act of execution of the instrument, the stamping will be considered as done at the time of execution. Even though the stamping may be after the signing of the document by the executant, it does not mean that the stamping is after the execution of the instrument. ILR (1969) 2 Ker 630 (632) °° AIR 1966 Ker 315= 1966 Ker LT 603 °° AIR 1963 Andh Pra 193 = (1963) 1 Andh WR 45 (DB).

[But see AIR 1957 Cal 709 (719) °° AIR 1956 Bom 421 (423) (DB).]

(4) Section 47 provides an exception to this section. AIR 1925 Bom 520 (520) (DB).

(5) Instrument not stamped before or at the time of execution is not duly stamped. (1904) 6 Bom LR 699 (701) °° (1961) 1 Andh WR 183 (187). (Not being duly stamped, it is inadmissible in evidence.) °° AIR 1956 Bom 421 (422) (DB) °° (1889) 13 Bom 484 (485) (It cannot be acted upon or be admitted in evidence under Section 35.)

(6) Instrument admitted in evidence by lower Court — Its admission cannot be questioned in appeal under Section 36. (1908) 11 Oudh Cas 152 (153, 154) °° (1900) 3 Oudh Cas 195 (198) (DB) °° (1882) 5 Mad 220 (221) (DB). (Hundi drawn by person in British India on firm at Colombo is governed by this section.)

(7) Evidence as regards the time of the stamping of the instrument is admissible. (1889) 13 Bom 484 (485).

(8) Executant of a document is the person against whom the Collector should proceed under Sections 40 and 48 for collecting stamp duty. Sections 17 and 62 show that the agreement between the parties and the provisions of Sections 29 and 44 are applicable only between the parties, leaving the Collector's right under Sections 40 and 48 unaffected. AIR 1956 Mad 454 (458) = ILR (1956) Mad 1074 (DB). (30 All 271 and AIR 1940 Lah 315 (SB), Dissented from.)

(9) Persons executing, i.e., "executants" do not include all persons signing in the document but only persons who by a valid execution have entered into an obligation under the document. So, not only witnesses but even other persons, like persons in whose favour the document is executed, but who undertake no obligation under the document will not be executants for purposes of being proceeded against under Ss. 40 and 48. AIR 1956 Mad 454 (459) = ILR (1956) Mad 1074 (DB) °° AIR 1962 Mad 425 (426) = 1962 Mad WN 1

(10) When a Court orders rectification of an instrument, the rectification has a retrospective effect and it goes back to the date of execution of the instrument. In fact, in the eye of law the original document ceases to exist and the only document which has existence is the document which is rectified in accordance with the decree of the Court. Therefore, the instrument which is chargeable to duty under S. 17 is not the unrectified instrument, but the instrument which a competent Court rectifies by its decree. AIR 1951 Bom 28 (Pr 2)=ILR (1951) Bom 226 (FB) °° ILR (1966) 1 All 546.

(11) Stamps Act makes no exemption in respect of documents which are filed in Court and form part of Court proceedings from liability to stamp duty. The original unstamped document, therefore, if produced in Court, could have been made admissible, by removing the defect by payment of penalty, but secondary evidence thereof is inadmissible even on payment of penalty. (1968) 2 Andh LT 212 (218).

18. Instruments other than bills and notes executed out of India.—(1) Every instrument chargeable with duty executed only out of *[India], and not being a bill of exchange †[*] or promissory note, may be stamped within three months after it has been first received in *[India].

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the ‡[State Government] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

[1879—Section 17; 1869—Section 24 (c).]

[*] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

[†] The word "cheque" was omitted by the Indian Finance Act, 1927 (V of 1927), Section 5.

[‡] Substituted for "collecting Government" by A.L.O., 1950.

STATE AMENDMENT

Goa, Daman and Diu:

In its application to the Union territory, after Section 18, insert the following:—

"**18-A. Payment of duty on certain instruments liable to increased duty under item (2) of the first proviso to section 3.**—Where any instrument (other than the one in respect of the documents specified in Entry 91 of List I in the Seventh Schedule to the Constitution) has become chargeable in any part of India other than the Union territory with duty under this Act or under any other law for the time being in force in any part of India and thereafter becomes chargeable with a higher rate of duty in the Union territory under item (2) of the first proviso to section 3,—

(i) notwithstanding anything contained in the said first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in India;

(ii) in addition to stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (b) in the same manner and at the same time and by the same person as though such instrument was an instrument received in India for the first time at the time when it became chargeable with higher duty."—Goa, Daman and Diu Act VIII of 1969, Section 8 (1-7-1969).

Note.—This section corresponds to Section 19-A inserted by other States.

Section 18 — Note 1

(1) Section does not apply to a simple money bond executed out of India. AIR 1928 Pat 134 (137) = 7 Pat 99 (DB).

(2) Deed of partition of property a part of which is situate in India is liable to be stamped under this section. AIR 1920 Mad 149 (149) (DB).

(3) Instrument may be stamped under this section even after it has been filed in Court. 1898 Bom PJ 371 (DB).

(4) Period of three months runs from the date of execution of the document. AIR 1935 Nag 54 (55) = 31 Nag LR 162

(5) Agreement executed in England to serve in India must bear Indian stamp — May be admitted in evidence on payment of penalty. (1878) 1 Mad 134 (141).

(6) Acknowledgment of a debt, not stamped within the period of three months cannot be made admissible in evidence by subsequent payment of duty and penalty. AIR 1928 All 666 (667).

(7) This section applies only to original documents and not to copies thereof. When the original is not forthcoming this section would not make the copy of such instrument admissible by stamping with the stamp required on its original. AIR 1951 Pepsu 24 (Pr 2).

(8) This section has no application to a hypothecation bond stamped with Pakistan stamps but executed in the Indian Union. Section 18 does not make the document inadmissible. Such a document is impoundable and should be admitted in evidence even if S. 18 is applicable to such a document. AIR 1960 Cal 779 (784).

19. Bills and notes drawn out of India.—The first holder in *[India] of any bill of exchange †[payable otherwise than on demand], ‡[°] or promissory note drawn or made out of °[India] shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in °[India], affix thereto the proper stamp and cancel the same:

Provided that—

(a) if, at the time any-such bill of exchange ‡[°] or note comes into the hands of any holder thereof in °[India], the proper adhesive§ stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder°† has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

[1879—Section 18; 1869—Sections 8, 31; 1862—S. 11; 1860—S. 9.] [Cf. English Stamp Act, 1891 (54 and 55 Vict., c. 39), Sections 35, 36.]

[°] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

[†] Inserted by the Indian Finance Act, 1927 (V of 1927), Section 5.

[‡] The word "cheque" was omitted, ibid.

[§] A special adhesive stamp inscribed with the words "Foreign Bill" has been prescribed for the purpose by the Rules.

[°†] See Section 8 of the Negotiable Instruments Act, 1881.

Section 19 — Note 1

(1) Foreign promissory note can be sued on by the first holder in India and is admissible in evidence in a Court in India even though it is unstamped if the suit is instituted before any of the acts set out in the section takes place. AIR 1916 Sind 66 (69) = 9 Sind LR 1250 (DB). (None of acts referred to in section taking place — Occasion to affix stamp to foreign bill or note does not arise.) ** AIR 1956 Hyd 63 (63) = ILR (1956) Hyd 42 ** AIR 1955 Punj 88 (Prs. 5, 6) ** AIR 1919 Mad 104 (104). (Filing of suit is not covered by any of acts referred to in section.) ** AIR 1941 Mad 868 (869) ** AIR 1935 Sind 48 (49) = 28 Sind LR 266.

(2) Suit instituted before any of acts set out in section takes place—If any stamp is necessary it would be sufficient if at time of decree Indian stamp is affixed to bill or note. AIR 1919 Mad 104 (104). (Suit is maintainable only if note is valid according to law of place where it was executed.) ** (1898) 8 Mad LJ 181 (183) ** (1969) 1 Mad LJ 590.

(3) Even if a bill or note has been stamped abroad with the correct Indian stamp, it must be stamped again under this section after it is brought into India. AIR 1941 Mad 868 (869) ** AIR 1953 Mad 424 (Prs 2, 4).

[But see AIR 1955 Punj 88 (Pr 6). (AIR 1941 Mad 868, Dissented from.)]

(4) Section applies to all foreign bills or notes whether the duty chargeable is one anna or more than one anna (1879) 4 Cal 259 (260).

(5) Promissory note executed in the Hyderabad State and stamped under this section but bearing no stamp of that State could be sued upon in British India. AIR 1918 Bom 211 (212) = 42 Bom 522 (DB) ** AIR 1930 Mad 1004 (1008) = 53 Mad 968 (DB) ** AIR 1964 Andh Pra 519 (521) = (1964) 2 Andh WR 292 (DB).

(6) Court can admit evidence to show that a bill purporting to be drawn abroad is in fact an inland bill. (1843) 152 ER 895 (896) = 12 LJ Ex 287.

(7) If the stamp is not cancelled at the proper time it cannot be cancelled afterwards. (1925) 27 Bom LR 1122 (1126).

(8) Where, in an action on a foreign bill of exchange the required stamp was upon the bill at the time of the trial, but no evidence was given to show that it was on the bill at the time it was endorsed to the plaintiff, it was held that it must be presumed to have been there at that time and that it was for the defendant to give evidence to rebut the presumption. (1868) 3 CP 286 (288) = 37 LJCP 146.

(9) Where it is clear that from the perusal of a foreign bill or note the plaintiff must have known that the stamp had been affixed and cancelled before it came into India and therefore before it came into the hands of the first holder in India he cannot claim the benefit of the proviso. AIR 1941 Mad 868 (869).

STATE AMENDMENTS

Section 19-A:

Andaman and Nicobar:

In its application to the Andaman and Nicobar Islands, after Section 19, insert the following new section, namely:—

"19-A. Payment of duty on certain instruments liable to increased duty in Andaman and Nicobar Islands under clause (bb) of first proviso to section 3.— Where any instrument has become chargeable in any part of India outside the Andaman and Nicobar Islands with duty under the stamp law for the time being in force in that part and thereafter becomes chargeable with a higher rate of duty in the Andaman and Nicobar Islands under clause (bb) of the first proviso to section 3,—

(i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in the Andaman and Nicobar Islands (sic).

(ii) In addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in India for the first time at the time when it became chargeable with the higher duty."—Regn. III of 1957, Section 7 (1-8-1957).

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the 1st day of April, 1959, after Section 19, insert the following new section, namely:—

"19-A. Payment of duty on certain instruments liable to increased duty under clause (bb) of section 3.—Where any instrument (other than one in respect of the document specified in Entry 91 of List 1 in the Seventh Schedule to the Constitution) has become chargeable in any part of India which, immediately before the 1st day of November, 1956 was comprised in a Part A State or Part C State other than the State of Andhra Pradesh with duty under the stamp law in force in the State concerned and thereafter becomes chargeable with a higher rate of duty in the said State under clause (bb) of the first proviso to section 3—

(i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in the State concerned;

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in any part of India which, immediately before the day aforesaid, was not comprised in a Part B State for the first time at the time when it became chargeable with the higher duty; and

(iii) the provisions contained in clause (b) or clause (c), as the case may be, of the proviso to sub-section (3) of section 32 shall, with the necessary modifications, apply to such instrument, but the provisions contained in clause (a) of the said proviso shall not apply thereto."—Andh. Pra. Act VI

Section 19-A — Note 1

(1) Where an instrument after becoming liable to duty in one State on execution there, becomes liable to duty also in another State on receipt there, it must first be stamped in accordance with the law of the first State and it will not require to be further stamped in accordance with the law of the second State when the rate of that second State is the same or lower; and where the rate of the second State is higher, it will require to be stamped only with excess amount and that in accordance with the law and the rules in force in the second State. **AIR 1963 SC 1307 (1312) = (1964) 1 SCA 44.**

of 1922, Section 7 (25-4-1922); Andh. Pra. A.L.O., 1957; Andh. Pra. Act XIX of 1959, Section 6 (1-4-1959).

Bihar:

In its application to the State of Bihar, after Section 19, insert the following new section, namely:—

"**19-A. Payment of duty on certain instruments liable to increased duty in Bihar under clause (bb) of section 3.**—Where any instrument has become chargeable in any part of the territories to which this Act applies other than Bihar with duty under this Act or under any other law for the time being in force in any part of the said territories and thereafter becomes chargeable with a higher rate of duty in Bihar under clause (bb) of the first proviso to section 3,—

(i) notwithstanding anything contained in the first proviso to section 3, the amount of the duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any already paid on it in the said territories;

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same person as though such instrument were an instrument received in the said territories for the first time at the time when it became chargeable with the higher duty."—Bih. Act VI of 1937, Section 8 (with effect from 1-1-1938); Bih. A.L.O., 1957.

Madhya Pradesh:

In its application to the whole State of Madhya Pradesh on and from the 1st day of November, 1957, Section 19-A is inserted after Section 19. This new section 19-A is the same as that of Bihar, subject to the modification, namely, for the word "Bihar", wherever it occurs, the words "Madhya Pradesh" are to be substituted.—C. P. Act VI of 1939, Section 7 (1-7-1939) read with M. P. Act XVIII of 1957, Section 3 (2).

Orissa:

In its application to the State of Orissa, Section 19-A, which is inserted after Section 19, is the same as that of Bihar, except the following, namely, for the word "Bihar", wherever it occurs, for the first time, the words "the State of Orissa" are to be substituted and where it occurs for the second time the words "the said State" are to be substituted.—Orissa Act VI of 1943, Section 8 (26-4-1943).

Pondicherry:

In its application to the Union territory of Pondicherry, in Section 19-A as obtaining in Tamil Nadu, as extended to Pondicherry,—

(a) for the words "Presidency of Madras", substitute the words "Union territory of Pondicherry"; and

(b) for the word "Presidency", substitute the words "Union territory".—Act XXVI of 1968, Section 3 (1) and Schedule, Pt. II (15-8-1968).

Punjab: Haryana: Chandigarh:

In its application to the States of Punjab and Haryana and Union territory of Chandigarh, Section 19-A, inserted after Section 19, is the same as that of Bihar, except the following, namely, for the word "Bihar", wherever it occurs, substitute the words "the Punjab" or Haryana or, U.T. of Chandigarh and after the words and figure "proviso to section 3", insert the words and figures "as amended by the Indian Stamp (Punjab Amendment) Act, 1922".—Punjab Acts VIII of 1922, Section 10 (15-1-1923) and V of 1957, Section 4; Central Act XXXI of 1961, Section 88 (1-11-1966).

Rajasthan:

In its application to the whole State of Rajasthan on and from the 1st day of April, 1958, after Section 19, insert the following new section, namely:—

"**19-A Payment of duty on certain instruments liable to increased duty in the State of Rajasthan.**—When any instrument has become chargeable in any part of India other than the State of Rajasthan with duty under the Indian Act or under any other law for the time being in force in such part and thereafter becomes

chargeable with a higher rate of duty in the State of Rajasthan under the Indian Act, as adapted to that State,—

(i) the amount of duty chargeable on such instrument shall be the amount chargeable on it under the Indian Act as so adapted less the amount of duty, if any, already paid on it in India; and

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamp necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in India for the first time when it became chargeable with the higher duty."—Raj. Acts VII of 1952 and XI of 1958, Section 3 (xiv).

Tamil Nadu:

In its application to the whole State of Tamil Nadu, after Section 19, insert the following new section, namely:—

"**19-A. Payment of duty on certain instruments liable to increased duty under section 3.**—Where any instrument has become chargeable in any part of India other than the State of Madras with duty under the stamp law in force in that part and thereafter becomes chargeable with a higher rate of duty in the said State under section 3,—

(i) notwithstanding anything contained in section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I less the amount of duty, if any, already paid on it in that part;

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in India for the first time at the time when it became chargeable with the higher duty, and

(iii) the provisions contained in clause (b) or clause (c), as the case may be, of the proviso to sub-section (3) of section 32 shall, with the necessary modifications, apply to such instrument, but the provisions contained in clause (a) of the said proviso shall not apply thereto."—Mad. Acts VI of 1922, Section 7 (25-4-1922); XXV of 1957, Section 4 and Schedule III (25-12-1957); XIV of 1958, Section 7 (1-10-1958).

Uttar Pradesh:

In its application to the State of Uttar Pradesh, Section 19-A, inserted after Section 19, is the same as that of Bihar, except the following, namely, for the word "Bihar", wherever it occurs, substitute the words "Uttar Pradesh" and after "Schedule I-A", insert "or Schedule I-B".—U. P. Acts III of 1936, Section 7 (1-5-1936) and XXVIII of 1952, Section 7 (1-11-1952).

West Bengal:

In its application to the State of West Bengal, Section 19-A, inserted after Section 19, is the same as that of Bihar, except the following, namely, for the word ,"Bihar" wherever it occurs, substitute the words "West Bengal".—Beng. Act III of 1922, Sec. 8 (1-4-1922).

D.—Of Valuations for Duty

20. Conversion of amount expressed in foreign currencies.—(1) Where an instrument is chargeable with ad valorem duty in respect of any money expressed in any currency other than that of °[India], such duty shall be calculated on the value of such money in the currency of °[India] according to the current rate of exchange on the day of the date of the instrument.

(2) The †[Central Government] may, from time to time, by notification‡ in the Official Gazette, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of °[India] for the purposes of calculating

stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

[1879—Sections 19, 20; 1869—Section 10.]

[°] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

[†] Substituted for "Governor-General in Council" by A.O., 1937.

[‡] For such a notification, see Gaz. of India, 11-12-1971, Pt. II, Sec. 3 (ii), p. 6882. This notification supersedes Notfn. No. 125-Stamps-25, dated 18-9-1925.

21. Stock and marketable securities how to be valued.—Where an instrument is chargeable with ad valorem duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value° of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

[1879—S. 21.]

[°] Section 22, infra, provides that if the price or value mentioned in the instrument for the purpose of calculating the duty shall be presumed to be correct.

22. Effect of statement of rate of exchange or average price.—Where an instrument contains a staatement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

[1879—Section 22.]

23. Instruments reserving interest°.—Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

[1879—Section 23; 1869—Section 9.]

[°] Mention of interest no wise affects the nature of the instrument.

°[**23-A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.**—(1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security† by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

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Section 23 — Note 1

(1) Sum secured by bond made up partly of old debt and partly of interest calculated according to sawai system — Stamp duty is payable on whole sum secured by bond. 1882 Bom PJ 352 (DB).

(2) Where the interest accrues under an instrument this section will apply although the interest payable is given as a lump sum and not a sum to be calculated at a certain rate. (1901) 3 Bom LR 133 (135) °° **1887 Bom PJ 35 (SB).**

[See however (1899) 26 Cal 179 (181) (DB).]

(3) Stipulation to pay compound interest in an instrument need not be considered in calculating the stamp duty on the instrument. **AIR 1930 Cal 630 (631) = 58 Cal 507 (FB).**

(4) Where an account written and signed by the debtor is addressed to the creditor and also contains a stipulation for interest, it amounts to an agreement and should be stamped under Article 5 of the Act. **(1908) 35 Cal 111 (113) (SB)** °° **(1901) 25 Bom 373 (375) (SB).**

(5) Acknowledgments containing an express promise to pay the principal with interest on demand amounts to a promissory note. **(1901) 3 Bom LR 839 (841) (SB).**

(6) Fact that interest is made payable only if there should be default in paying the promised sum by a specified date does not make the instrument other than a promissory note. (1881) 3 All 260 (265) (FB).

(7) Rule contained in this section applies also to promissory notes and stamp duty on a promissory note is payable only on the principal sum mentioned in the note. (1869) 2 Beng LR (OC) 165 (166) (DB).

Section 23-A — Note 1

(1) On the question whether the instrument in question (in pursuance of which the executants deposited with the Bank certain shares in public limited companies, as security for repayment of the amount due and payable on overdraft accounts) is chargeable as an agreement relating to pledge or pawn of moveable property falling under Article 6 (2) of Schedule or as an agreement falling under Article 5 (c) of Schedule I — **Held**, that the marketable securities having been deposited on the occasion of the execution of the instrument by way of security for money advanced or to be advanced as required by the provisions of Section 23-A of the Stamp Act, the instrument is one falling under Article 5 (c) of Schedule I. **AIR 1968 Mad 279 (279) = (1968) 1 Mad LJ 381 (FB).**

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under †[Article No. 5 (c)] of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.]

[°] Added by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 3.

[†] Substituted for "Article No. 5 (b)", ibid 1912 (I of 1912), Section 3.

[‡] Section gives relief to instruments coming into existence after the deposit of marketable securities by way of security which would otherwise be chargeable to ad valorem duty.

STATE AMENDMENTS

Andaman and Nicobar:

See Section 9 of Regn. III of 1957 given under Section 29-A.

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the 1st day of April, 1959, in sub-section (1) of section 23-A, after the word and figure "Schedule I". the words and figure and letter "or Article No. 5 (c) of Schedule I-A as the case may be" shall be inserted.—Andh. Pra. Acts VI of 1922, Section 8 (25-4-1922); VI of 1923, Section 2; XIX of 1959, Section 7.

Bihar:

In its application to the State of Bihar, Section 9 of the Bihar Stamp (Amendment) Act, VI of 1937 (1-1-1938), is as follows:—

"9. **Applications of sections 23-A, 24 and 29 to instrument chargeable with duty under Schedule I-A.**—In appplying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bihar Stamp (Amendment) Act, 1937, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A."

Goa, Daman and Diu:

In Section 23-A. after the word and figure "Schedule I", add the words "or Act No. 5 (c) of Schedule I-A, as the case may be".—Goa, Daman and Diu Act VIII of 1969, Section 9 (1-7-1969).

Madhya Pradesh:

In its application to the whole State of Madhya Pradesh on and from the 1st day of November, 1957, Section 8 of the Central Provinces and Berar Indian Stamp (Amendment) Act, VI of 1939 (1-7-1939) is similar to Section 9 of the Bihar Act, printed above, except, for the words and figures "under the Bihar Stamp (Amendment) Act, 1937", substitute the words and figures "under this Act, as amended by the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939".—C. P. and Berar Act VI of 1939. Section 8 (1-7-1939).

Orissa:

In its application to the State of Orissa, Section 9 of the Orissa Stamp (Amendment) Act, VI of 1943 (26-4-1943), is similar to section 9 of the Bihar Act printed above, except for the short title of the Bihar Act, for which substitute the short title "the Orissa Stamp (Amendment) Act, 1943".

Punjab: Haryana: Chandigarh:

In its application to the States of Punjab and Haryana and Union territory of Chandigarh. in sub-section (1), for the word and figure "Schedule I", substitute the word, figure and letter "Schedule I-A".—Punj. Acts VIII of 1922, Section 11 (15-1-1923) read with V of 1957, Section 4: Central Act XXXI of 1966, Section 89 (1-11-1966).

Tamil Nadu:

In its application to the whole State of Tamil Nadu, in sub-section (1) of Section 23A, omit the words, figure and letter "or Article No. 4 (c) of Schedule I-A as the case may be" inserted by the previous amending Acts—T. N. Act XIV of 1958, Section 8 (1-10-1958).

Uttar Pradesh.

In its application to the State of Uttar Pradesh, in sub-section (1) of Section 23-A, for the word and figure "Schedule I", substitute the word, figure and letter "Schedule IB".— U. P. Acts III of 1936, Section 8 (1-5-1936) and XXVIII of 1952, Section 8 (1-11-1952).

West Bengal:

See Section 29-A given under State Amendments to S. 29 infra.

24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.—Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with ad valorem duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Section 24 — Note 1

(1) A indebted to B — A transferring certain property to him to wipe out debt — Amount of debt will be deemed to be consideration and duty will be chargeable on amount of debt. (1891) 15 Bom 675 (677).

(2) A indebted to B to extent of Rs. 1000— Instrument executed transferring A's property to B — Under instrument B relinquishing part of debt — Property transferred for consideration of Rs. 700 — Fact that instrument states that consideration for transfer is Rs. 700 does not make any difference when instrumcnt taken as whole shows that consideration is really Rs. 1,000. **AIR 1935 Rang 243 (245) = 13 Rang 613 (SB).**

(3) In letter of assignment by debtor to his creditor amount of consideration not set forth — Amount or value of consideration held could be amount or value of debt (wholly or in part, as the case may be) due from debtor to his creditor. **(1903) 27 Bom 150 (153) (FB).** (Debtor by letter authorised creditor to receive sum of money on his behalf due to him by Panjrapol authorities on account of fodder supplied — Held, that it was transfer by debtor to his creditor in consideration of debt due to latter.)

(4) Tenant transferring his leasehold rights and transferee undertaking to pay rent reserved under original lease — Duty is payable on only actual consideration for transfer. **AIR 1931 Bom 1 (2) (FB)** °° (1900) 1900-1 QB 172 (176) = 69 LJQB 63. ((1899) 1 QB 335, Affirmed.)

(5) Where the property is subject to a mortgage but the sale is not, the explanation does not apply. **AIR 1931 Cal 183 (195) = 58 Cal 33 (FB)** °° **AIR 1959 All 655 (657, 658) = ILR (1959) 1 All 773 (SB).** (When the main section is applicable only to cases of transfers subject to an encumbrance the explanation too can apply to such cases.) °° AIR 1924 Bom 524 (526) = 49 Bom 73 (DB) °° **AIR 1937 Nag 57 (58) = ILR (1937) Nag 432.** (Undertaking by vendee to pay mortgage-money may be express or implied.)

(6) It is necessary that the purchaser should undertake to pay off the mortgage in order to make the sale "subject to a mortgage". AIR 1924 Bom 524 (526) = 49 Bom 73 (DB).

[But see **AIR 1931 Cal 193 (196) = 58 Cal 33 (FB).**]

(7) Instrument has to be stamped according to the intent of the bargain which it represents. **AIR 1931 Cal 193 (194) = 58 Cal 33 (FB).**

(8) Where property under attachment is sold, stamp duty need not be paid on the amount for which the property has been attached. AIR 1924 Bom 524 (524) = 49 Bom 73 (DB).

(9) Where an immovable property which is encumbered by a charge or mortgage, is sold but not subject to the incumbrance, then the amount of money constituting the charge or mortgage need not be added to the consideration mentioned in the conveyance as the value of the property sold. **AIR 1959 All 655 (657) = ILR (1959) 1 All 773 (SB).** (The words of Section 24 beginning with "subject either" and ending with "property or not" apply to the word "transferred" and not to the word "property".) °° AIR 1969 Andh Pra 143 (144) = (1969) 1 Andh WR 368.

(10) Provisions are intended to get at real consideration for conveyance for purpose of charging ad valorem duty where in a conveyance subject to first legal mortgage in favour of Bank an arrangement is made that the mortgage debt has to be discharged by the purchaser out of the purchase price to get the property and title thereto free from the mortgage paying the balance to vendor. This debt cannot be said part of the consideration, the consideration being that which is mentioned in the conveyance as the sale price. **AIR 1966 Guj 227 = (1966) 7 Guj LR 282 (FB).**

(11) Part of mortgaged property sold subject to mortgage — Whole mortgage-money is deemed consideration for transfer and stamp duty has to be paid on this amount together

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

[1879—Section 24; 1869—Section 34 (b).]

STATE AMENDMENTS

Andaman and Nicobar:

See Section 29-A given under State Amendments.

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the 1st day of April, 1959—

(a) in Section 24, after the word and figure "Schedule I", the words, figure and letter "or Art. 16 of Schedule I-A as the case may be" shall be inserted;

(b) for the expression "in respect ..... ad valorem duty", substitute "and the transfer is chargeable with ad valorem duty, in respect of the said consideration or the market value of the property transferred, whichever is higher"; and

(c) omit the illustrations.—Andh. Pra. Acts VI of 1922, Section 9 (25-4-1922); XIX of 1959, Section 2; and XXII of 1971, Section 2.

Bihar:

See Section 9 of the Bihar Stamp (Amendment) Act, VI of 1937 (1-1-1938), given in the State Amendments under Section 23-A.

Section 24 — Note 1 (contd.)

with sale price. AIR 1940 Bom 360 (360) = ILR (1941) Bom 23 (SB) ** (1886) 10 Bom 58 (59) (FB).

[But see (1931) Beng SM Vol. 1, p. 27 ** (1940) Bihar S M p. 110-111.]

(12) Proviso can be availed of even in cases of transfer to a transferee from or successor of the mortgage who steps into his shoes. (1903) 5 Bom LR 523 (524) (FB).

(13) Where the instrument transfers only a part of the mortgaged property no deduction can be allowed. AIR 1926 Bom 542 (543) = 50 Bom 640 (FB). (This is so even in cases where property transferred by instrument to mortgagee, comprises, together with property already transferred to him by other instruments, whole of mortgaged property.)

(14) Fact that the instrument transfers, in addition to the mortgaged property, other property does not bar the benefit of this proviso. (1902) 4 Bom LR 430 (431) (FB).

(15) 'Sale of property subject to a mortgage' — Applies if mortgaged property is sold subject to mortgage and not whenever mortgaged property is sold — It is only the unpaid mortgage that is deemed to be part of the consideration — If the mortgage money has been paid off by the date of conveyance, the explanation does not require to be added to the consideration. If the mortgage money has been paid off by the vendee before the date of the sale, as part of the consideration, it would be included in the amount leviable with stamp duty under Article 23, but not under the explanation. AIR 1965 SC 1092 (1094, 1095) = (1965) 2 SCR 269.

(16) Property sold subject either certainly or contingently to the payment of money — Property sold subject to a charge created by equitable mortgage — Value of consideration for stamp duty under Schedule 1-B, Article 23 will include the charge so created. AIR 1972 All 252 (260) = 1972 All LJ 238 (FB).

(17) Transfer subject to a charge — Expression "subject to"—Meaning of—Payment towards satisfaction of the charge, held was a part of consideration for sale because the expression qualifies the word "sale" and not the word 'property'. Therefore money payable by vendee towards an unpaid mortgage or other incumbrance forms a part of the consideration for the sale. AIR 1972 Delhi 131 (133) = ILR (1972) 1 Delhi 593.

(18) Power delegated by executants to bank to sell property covered by mortgage decrees in its favour and for appropriation of sale proceeds towards decretal amount — Instrument held did not fall within S. 24. AIR 1970 All 599 (603) = 1970 All LJ 464 (SB).

Goa, Daman and Diu:

In Section 24, in the Proviso, after the word and figure "Schedule I". add the words, etc. "or Article No. 18 of Schedule I-A, as the case may be".—Goa, Daman and Diu Act VIII of 1969, Section 10 (1-7-1969).

Madhya Pradesh:

See Section 8 of the Central Provinces and Berar Indian Stamp (Amendment) Act, 6 of 1939 (1-7-1939), given in the State Amendments under Section 23-A.

Orissa:

See Section 9 of the Orissa Stamp (Amendment) Act VI of 1943 (26-4-1943), given in the State Amendments under Section 23-A.

Pondicherry:

Same as in Tamil Nadu—Pondi. Act XXI of 1970, Section 2 (5-8-1970).

Punjab: Haryana: Chandigarh:

In the proviso to the section, after the word and figure "Schedule I", insert the words, figure and letter "or Schedule I-A, as the case may be".—Punjab Acts VIII of 1922, Section 12 (15-1-1923) and V of 1957, Section 4: Central Act XXXI of 1966, Section 89 (1-11-1965).

Tamil Nadu:

For Section 24, substitute the following, namely:—

"**24. How far transfer of property subject to mortgage to be charged.**—Where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustration

A mortgages a house to B for Rs. 5,000. A afterwards sells the house to B. The market value of the house at the time of sale is Rs. 10.000. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.—T. N. Act XXIV of 1967, Section 2 (22-4-1968).

Uttar Pradesh:

In its application to the whole State of Uttar Pradesh, in the first Proviso to Section 24, for the figure "I", substitute the figure and letter "IB".—U. P. Act XLIII of 1958, Section 4 (with effect from 1-4-1959).

West Bengal:

See Section 29-A given under State Amendments.

25. Valuation in case of annuity, etc.—Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically,

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Section 25 — Note 1

(1) Section is not applicable to a life-policy securing an annuity and there is no provision in the Stamp Act which can relate to the valuation of annuities secured by life-policies. (1892) 19 Cal 499 (503) (DB). (Entrance certificate granted under rules of Uncovenanted Service Family Pension Fund does not come within scope of this section.)

(2) Conveyance for lump sum plus annual payment — Annual payment is part of consideration for conveyance and conveyance comes within this section. (1904) 91 LT 453 (456).

(3) A sum payable periodically includes a sum payable by instalments. (1872) 7 Ex 211 (217) = 41 LJ Ex 106.

(4) Words "sum payable periodically" in this section will include money payable on a contingency. (1906) App Cas 21 (23). ((1905) 1 KB 174, Affirmed.)

(5) Ad valorem duty is payable only on the consideration money actually mentioned in the conveyance. (1900) 24 Bom 257 (260) (SB) °° AIR 1931 Bom 1 (2) (FB).

(6) Number of payments to be made fixed by instrument — Consideration for assessing stamp payable on instrument is total sum payable during period irrespective of fact that payments may cease or be terminated by act of parties before expiry of period fixed. AIR 1939 Bom 215 (216, 220) = ILR (1939) Bom 320. (Section does not apply to lease but may apply to transfer of lease.)

(7) Where by an award a certain sum was made payable monthly to a certain person, but without any mention whether the sum was secured or intended to be secured to the heirs or representatives of the person to whom it was payable, it was held that the award ought to be stamped as a document securing an an-

the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be—

(a) where the sum is payable for definite period so that the total amount to be paid can be previously ascertained—such total amount;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

[1879—Section 25; 1869—Section 12; 1862—Schedule A, Art. 24.]

STATE AMENDMENTS

Pondicherry:

Same as in Tamil Nadu—Pondi Act XXI of 1970, Section 3 (5-8-1970).

Tamil Nadu:

In Section 25, in its application to Tamil Nadu,—

(i) in opening paragraph, omit the words "or where the consideration for a conveyance is an annuity or other sum payable periodically" and "or the consideration for such conveyance, as the case may be";

(ii) in clauses (b) and (c), omit the words "or conveyance" wherever occurring.—T. N. Act XXIV of 1967, Section 3 (22-4-1968).

26. Stamp where value of subject-matter is indeterminate.—Where the amount or value of the subject-matter of any instrument chargeable with ad valorem duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest

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Section 25 — Note 1 (contd.)

nuity under cl. (c) of this section. 1896 All WN 197 (197) (DB).

(8) The act of any party to the instrument obliging himself to pay money to the other party to the instrument, which can only mean a legal obligation, brings that instrument within the scope of Sec. 25. If there is such an obligation, then the instrument is 'bond'. **AIR 1968 Delhi 1** (4) = (1967) 69 **Punj LR (D.) 370 (FB).**

Amount of duty payable on instrument held fell within this section and could not have effect of adding to stamp duty payable. **(1887) 9 All 585** (588, 589) **(FB).** (Per Stuart, C. J.)

(4) Suit brought on instrument for recovery of grain or its value — Plaintiff is not precluded from recovering full market value of grain at date of suit and his right is not confined to recovering value as stated in instrument. (1886) 13 Cal 268 (269) (DB) ** (1894) 4 Mad LJ 201 (204) (DB).

(5) Where the lease makes the value of a certain quantity of grain payable and does not state any amount as its value, this section will apply. **(1881) 3 Mad 342** (346, 347) **(FB)** ** AIR 1918 Low Bur 33 (34).

(6) Mortgage executed to secure balance of running account and expressing maximum amount secured — Instrument is not one covered by this section. AIR 1919 Low Bur 37 (37) = 9 Low Bur Rul 217 (DB).

[See however (1904) 31 Cal 807 (809) (DB).]

(7) In computing the amount or value of the subject-matter of an instrument for purposes of stamp-duty the amount stipulated to be paid by way of penalty in case of breach of covenant is not to be taken into account. **(1887) 9 All 585** (588, 589) **(FB).**

[But see **(1880) 2 All 654** (663) **(FB).** (Stuart C. J., Contra — The correctness of this decision was doubted in **9 All 585 (FB).**]

Section 26 — Note 1

(1) Where the instrument is chargeable with a fixed duty this section does not apply. AIR 1924 Nag 408 (409) ** (1904) 27 Mad 71 (74) (DB).

(2) Section applies only when the instrument is liable to ad valorem duty and can have no application when no duty is payable on the instrument. AIR 1918 Mad 1066 (1067) (DB). (Section does not apply to lease by cultivator for cultivation.)

(3) Grower of sugarcane executed instrument whereby he acknowledged receipt of sum of Rs. 25 as earnest money and covenanted to deliver to lender on certain date 21 maunds of rab upon which he was to receive profit of 9 annas per maund over and above price to be thereafter fixed at meeting of growers —

amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

°[Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty,—

(a) when the lease has been granted by or on behalf of the †[Government], at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the †[Government] under the lease, or

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:]

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

[1879—Section 26; 1869—Section 11; 1862—Section 27; 1860—Section 14.]

[°] Substituted for the original proviso by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 4.

[†] Substituted for "Crown" by A.L.O., 1950.

27. Facts affecting duty to be set forth in instrument.—The consideration (if any) and all other facts and circumstances affecting the chargeability of any instru-

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Section 26 — Note 1 (contd.)

(8) C executing bond for Rs. 800 in favour of A — A assigning debt to B by way of gift and in assignment deed estimating value stated as Rs. 400 — Section does not apply. **AIR 1939 Pat 49 (54) = 18 Pat 141 (FB).**

(9) Where at the time of stamping an instrument the parties are under a mistake that it is chargeable with a fixed duty, the fact that the instrument is chargeable with ad valorem duty and therefore insufficiently stamped, is not sufficient to attract this section. **1897 Bom PJ 382 (FB).**

(10) Amount or value of subject-matter can be ascertained at date of execution — Instrument insufficiently stamped — Court should either refuse to admit instrument in evidence or receive it on payment of penalty and deficit duty under S. 35. **(1872) 14 Moo Ind App 24 (38, 39) (PC).**

(11) Under the section nothing in excess of the amount or value covered by the stamp can be recovered under the instrument and no decree for the excess can be passed in favour of the plaintiff even though the defendant admits the claim laid. (1869) 4 Mad HCR 120 (134) (DB) °° AIR 1918 Low Bur 33 (34).

(12) "Claimable" means claimable in a Court of Justice. (1904) 31 Cal 807 (809, 810) (DB).

(13) It is not permissible for a Court to refuse to admit a document in evidence under this section. AIR 1917 Mad 799 (801) (DB).

(14) Estimate exceeding — Instrument becomes one not duly stamped to extent to which estimate is exceeded and one to which Section 35 applies — Party can claim full amount due on payment of penalty and deficit stamp duty under Section 35. AIR 1920 Pat 50 (55, 56) = 5 Pat LJ 660 (DB). (Effect of section is to make instrument "duly stamped" to extent of amount covered by stamp duty paid and not "duly stamped" in respect of any amount that may be claimed in excess.) °° AIR 1930 Cal 526 (530) (DB). (Objection that plaintiff cannot recover more than amount covered by stamp under this section cannot be taken for first time in appeal.) °° AIR 1918 Mad 1066 (1067, 1068) (DB) °° AIR 1924 Nag 408 (409) °° **1897 Bom PJ 382 (FB)** °° **(1886) 10 Bom 239 (240) (FB).**

(15) Mortgage for Rs. 10,000 — Mortgage deed also providing for further advances — Rs. 7,000 advanced from time to time — Application by mortgagee under S. 31 — Collector adjudging that instrument was mortgage for Rs. 10,000 and agreement for further advances — Duty of Rs. 75 charged on mortgage and that of As. 12 on agreement — Deficit duty and penalty levied and certificate to that effect endorsed on instrument — Procedure adopted by Collector held excluded operation of this section. AIR 1946 Mad 437 (441) = ILR (1947) Mad 141 (DB). (Object of Act is to protect revenue and not to alter terms of bargain between parties.)

Section 27 — Note 1

(1) The intendment of Section 27 is obvious. It is for knowing whether the stamp duty payable in accordance with the requirements of the Stamp Act has been duly paid or not. AIR 1960 Andh Pra 155 (158).

(2) Fact of the mortgage or charge must be stated in the instrument. **AIR 1931 Cal 193 (201) = 58 Cal 33 (FB)** °° AIR 1937 Nag 57 (58) = ILR (1937) Nag 432.

(3) Where duty is payable on the value of the property as set forth in the instrument, the value of the property is a fact affecting the duty and must be stated in the instrument. **AIR**

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ment with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth* therein.

1879—S. 27; 1869—S. 34 (a); 1862—S. 51 (1); 1860—S. 35.]

[*] There are many enactments under which an enhanced stamp duty or surcharge on stamp duty is payable in respect of certain transfers of immovable properties situated within the limits of certain specified areas. In cases where the properties transferred are situated partly within such areas and partly outside, the particulars under this section are required to be set forth separately in regard to the properties situated within the specified areas and those situated outside. For instances of such enactments, see the following Acts:—

Andhra Pradesh Gram Panchayats Act, 1964 (2 of 1964), Section 73 (2).

Assam Municipalities Act, 1956 (15 of 1957), Section 90 (2).

Andhra Pradesh Municipalities Act, 1965 (Andh. Pra. Act VI of 1965), Section 121.

Calcutta Improvement Act, 1911 (Beng. V of 1911), Section 82 (2).

Gauhati Municipal Corporation Act, 1969 (Assam Act 1 of 1973), Section 178.

Madras City Municipal Act. 1919 (Mad. IV of 1919), Section 136.

Madras District Municipalities Act, 1920 (Mad. V of 1920), Section 116-B.

Madras District Boards Act, 1920 (Mad. XIV of 1920), Section 110-B.

Section 27 — Note 1 (contd.)

1922 All 82 (2) = 44 All 349 (FB) ** AIR 1953 Mad 941 (Pr 6) = 1953 Cri LJ 1756.

(4) Property transferred in consideration, wholly or in part, of any debt due to transferee from transferor — Instrument must state fact. (1910) 32 All 171 (174) (DB).

(5) Rules contained in the Court-fees Act relating to the valuation of property for purposes of court-fees cannot be resorted to, to ascertain the value of property for purposes of stamp duty. **(1880) 2 All 664 (667, 668) (FB).**

(6) Duty not payable on value of property, but on amount of consideration only and such consideration truly set forth in instrument — There is no contravention of provisions of this section merely because property is under-valued. **(1896) 20 Mad 27 (29) (FB).**

(7) Stamp duty payable on an instrument must be determined by referring to the terms of the document and the Court cannot take into consideration evidence de hors the instrument itself. **AIR 1935 Rang 243 (244, 245) = 13 Rang 613 (SB)** ** **(1903) 27 Bom 279** (280) (FB) ** (1870) 5 Beng LR 103 (105) (DB) ** **AIR 1922 All 82 (83) = 44 All 339 (FB).** (Duty payable on value of property as set forth in instrument — Value of property must be stated in instrument.) ** (1889) 16 Cal 432 (435) (DB).

(8) Duty payable on amount of consideration — Court can find out true consideration from examination of terms of instrument as whole and is not bound to restrict itself to consideration which parties have elected to state in instrument. **AIR 1935 Rang 243 (244) = 13 Rang 613 (SB).**

(9) If the value is stated in the instrument and duty paid thereon, the instrument must be regarded as duly stamped and cannot be impounded on the ground that the market-value of the property is higher than that stated in the deed. **(1885) 8 Mad 453 (455) (FB).**

(10) Instrument of gift not stating value of property gifted — Instrument is not chargeable to any duty at all. **AIR 1922 All 82 (83) = 44 All 339 (FB).** (Collector cannot ascertain value of property with view to causing instrument to be stamped with reference to value thus ascertained and if failure to state value is intentional remedy is prosecution under Section 64.) ** AIR 1929 Nag 272 (272) ** **AIR 1945 Lah 69 (75) = ILR (1946) Lah 185 (SB).** (Case of mortgage deed.)

[See also AIR 1953 Mad 941 (Prs 6, 7) = 1953 Cri LJ 1756. (Settlement deed — Stamp duty should be calculated on valuation shown in deed itself — Document registered — Subsequent information as to under-valuation — Prosecution under S. 27 read with S. 64 can be initiated.)]

(11) Two courses are open when a document is sought to be registered on an under-valuation. First of all if the Registrar either from his own information or otherwise suspects that the valuation given is an under-valuation with intent to cheat the Government of the legitimate duty, he can ask for particulars from the party and if satisfied with its undervaluation, can refuse to register the document unless proper duty is paid. Secondly in case where the document gets registered and the information is subsequently received that the valuation shown is an undervaluation and that the legitimate stamp duty has been intentionally evaded to defraud the State, it will be open to the Registrar to initiate a prosecution under S. 27 read with Section 64 of this Act. AIR 1953 Mad 941 (Pr 7) = 1953 Cri LJ 1756.

(12) Bond stipulating for delivery of certain quantity of grain at future date at price fixed by parties — Stamp duty paid on value so fixed — Bond cannot be considered to be not duly stamped, although subsequently, there may be rise in market-value of grain. (1886) 13 Cal 268 (269) (DB).

(13) In estimating the stamp duty payable on an instrument provisions in the instrument

Maharashtra Zilla Parishads and Panchayat Act, 1961 (V of 1962), Section 158.

Orissa Additional Stamp Duty Act, 1970 (Ori. Act XXXII of 1970), S. 3 and Schedules I and II.

Delhi Municipal Corporation Act, 1957, Sections 147, 148.

Nagpur Improvement Trust Act, 1936 (C. P. and Berar XXXVI of 1936), Section 77 (2).

Madhya Pradesh Municipal Corporation Act, 1956, Section 133-A (2).

T. N. Panchayats Act, 1958 (XXX of 1958), Section 124.

STATE AMENDMENTS

Andhra Pradaesh:

In Section 27, in its application to the State of Andhra Pradesh, for the words "the consideration (if any)", substitute the words "the consideration, if any, the market value of the property".—Andh. Pra. Act XXII of 1971, Section 3.

Pondicherry:

Same as in Tamil Nadu—Pondi. Act XXI of 1970, Section 4 (5-8-1970).

Rajasthan:

In its application to the State of Rajasthan, Section 27 shall be renumbered as sub-section (1) thereof, and after sub-section (1) so renumbered add the following as sub-section (2):—

"(2) In the case of instruments relating to immovable property chargeaable with an ad valorem duty on the value of the property, or on the value set forth therein, the instrument shall fully and truly set forth the land revenue in the case of revenue-paying land, the annual rental or gross assets, if any, in the case of other immovable property, the local rates, municipal or other taxes, if any, to which the property may be subject, and any other particulars which may be pre-cribed by rules made under this Act."—Raj Act XVI of 1966, Section 2 (b) (13-6-1966).

Uttar Pradesh:

In its application to the whole State of Uttar Pradesh. Section 27 of the main Act shall be renumbered as sub-section (1) and the following shall be added as sub-section (2), namely:—

"(2) In the case of instruments relating to immovable property chargeable with an ad valorem duty on the value of the property, and not on the value set forth, the instrument shall fully and truly set forth the annual land revenue in the case of revenue-paying land, the annual rental or gross assets, if any, in the case of other immovable property, the local rates, municipal or other taxes, if any, to

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Section 27 — Note 1 (contd.)

which are essentially of a penal character are not to be taken into account. **(1887) 9 All 585 (590) (FB).**

(14) A person would for failure to comply with S. 27 be liable to prosecution under Section 64 of the Stamp Act. The mere failure on the part of the parties to a transaction set out in a document to comply with Section 27 does not either render the document inadmissible or liable to impounding and taxed in the manner provided in Section 35. For that, one will have to go to that section and the appropriate article in the schedule which is Article 33. AIR 1961 Madh Pra 6 (Pr 9). (AIR 1922 All 82 (2) (FB), **Relied on.**)

(15) Where the value of the property settled is two lakhs, the statement in the deed that "for purposes of stamp duty and registration the value is Rs. 3,000" contravenes the provisions of S. 27. **AIR 1950 Mad 738 (739, 740) = (1950) 2 Mad LJ 213 (FB).**

(16) Deed of settlement — Deliberate undervaluation — Executant is liable to be prosecuted under S. 64. 1950 Nag LJ 658 (Rev).

(17) Specific mention of Sections 27 and 64 in Section 116-B of Madras District Municipalities Act would lead to inference that legislature did not contemplate application of Section 35 of Stamp Act to levy and collection of transfer duty under Madras Act. AIR 1969 Andh Pra 417 (421).

(18) Failure to set forth consideration truly and fully is merely punishable under Section 64. There is no provision in the Stamp Act empowering the Revenue to make an independent enquiry of the value of the property conveyed for determining the duty chargeable. **AIR 1972 SC 899 (904) = (1972) 2 SCA 24.**

(19) In order to calculate the stamp duty payable on a deed of partition of a Hindu undivided family, the value of each share may be fixed on the basis of future net assets calculated after deducting the amount of encumbrances and other liabilities. Failure to mention the details of liabilities is not non-compliance with S. 27. **1972 Tax LR 2442 (2445 and 2447) = ILR (1972) 1 Delhi 137 (SB).**

which such property may be subject, and any other particulars which may be prescribed by rules made under this Act."—U. P. Act XVIII of 1938, Section 3 (13-2-1939).

Tamil Nadu:

In its application to the State of Tamil Nadu, in Section 27, after the words and brackets "the consideration (if any)", add the words "and the market value".—T. N. Act XXIV of 1967, Section 4 (22-4-1968).

28. Direction as to duty in case of certain conveyances.—(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purcaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchaser:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

[1879—Section 28.]

STATE AMENDMENTS

Andhra Pradaesh:

In Section 28,—

(i) in sub-section (1), for the portion beginning with 'provided that' and ending with "such consideration", substitute "Provided that a distinct consideration for,

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Section 28 — Note 1

(1) B contracting to purchase certain property from A and then contracting to sell same property to C — B may, instead of taking conveyance from A and then transferring property to C, direct A to execute conveyance directly in favour of C — A is bound to execute conveyance in favour of nominee. AIR 1935 Bom 340 (342) = 59 Bom 582 (DB).

(2) See also the following case. (1956) 3 All ER 33 (36). (English Stamp Act (1891), S. 58 (4) — Section means that the duty has to be so assessed whether the consideration for the sub-sale be greater or less than the consideration for the original sale.)

and the market value of each separate part are set forth in the conveyance relating thereto, and such conveyance shall be chargeable with ad valorem duty in respect of the distinct consideration for, or the market value of, each part, whichever is higher.";

(ii) in sub-section (2), add at the end the words "or the market value of such separate part, whichever is higher";

(iii) in sub-section (3), add at the end "or the market value of property, whichever is higher";

(iv) in sub-section (4), after the words "consideration paid by such sub-purchaser" and "aggregate of the considerations paid by the sub-purchasers", add the words "or the market value of such part, whichever is higher" and "or the market value of such residue, whichever is higher", respectively;

(v) in sub-section (5), after the words "the consideration paid by him" and "the consideration obtained by such original seller", add the words "or the market value of the property, which is the subject-matter of the conveyance, whichever is higher" and "or the market value of such property whichever is higher".—Andh. Pra. Act XXII of 1971, Section 4 (12-11-1971).

Andaman and Nicobar:

In its application to the Andaman and Nicobar Islands, in the Proviso to sub-section (4) of Section 28, for the words "one rupee" substitute the words "two rupees".—Regn. III of 1957, Section 8 (1-8-1957).

Assam:

In its application to the State of Assam, the amendment made in section 28 is the same as that of Andaman and Nicobar.—Assam Act VII of 1950, Section 5 (1-4-1950).

Pondicherry:

Same as in Tamil Nadu—Pondi. Act XXI of 1970, Section 5 (5-8-1970).

Rajasthan:

In its application to the whole State of Rajasthan on and from the 1st day of April, 1958, the amendment made in Section 28 is the same as that of Andaman and Nicobar—Raj. Acts VII of 1952 and XI of 1958, Section 3 (xv).

Tamil Nadu:

For Section 28, substitute the following:—

"28. **Direction as to duty in case of certain conveyances.**—Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the market value of the property which is the subject-matter of conveyance and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for market value of the property which is the subject-matter of conveyance, or, where such duty would exceed five rupees, with a duty of five rupees."—T. N. Act XXIV of 1967, Section 5 (22-4-1968).

West Bengal:

In its application to the State of West Bengal, the amendment made in Section 28 is the same as that of Andaman and Nicobar.—Beng. Act XII of 1935, Section 6 (1-6-1935).

E.—Duty by whom payable

29. Duties by whom payable.—In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following articles of Schedule I, namely:—

No. 2 (Administration Bond),

Section 29 — Note 1

(1) In cases of documents not provided for in this section the duty will have to be borne by the person who desires to get the instrument stamped. **AIR 1935 Bom 256 (257) = 59 Bom 469 (SB).** (Consent decree creating charge on immovable property is not liable for any stamp duty.)

(2) A, a company entered into agreement with B whereby A agreed to execute trust-deed to be prepared by B's solicitors at expense of A — Suit by B to recover cost of

°[No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),]
No. 13 (Bill of exchange),
No. 15 (Bond),
No. 16 (Bottomry Bond),
No. 26 (Customs Bond)
No. 27 (Debenture),
No. 32 (Further charge),
No. 34 (Indemnity Bond),
No. 40 (Mortgage-deed),
No. 49 (Promissory-note),
No. 55 (Release),
No. 56 (Respondentia Bond),
No. 57 (Security-bond or Mortgage-deed),
No. 58 (Settlement),
No. 62 (a) (Transfer of shares, in an incorporated Company or other body corporate),
No. 62 (b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

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Section 29 — Note 1 (contd.)

preparation of trust-deed — B, held entitled to include in claim stamp duty paid on trust-deed. (1897) 21 Bom 126 (136).

(3) Sections 17 and 62 show that the agreement between the parties and the provisions of Sections 29 and 44 are applicable only between the parties leaving the Collector's right under Sections 40 and 48 unaffected. Sections 17 and 62 together indicate that the executant of a document executed by any person in India is the person against whom the Collector should proceed under Ss. 40 and 48 for collecting the stamp duty and penalty. AIR 1956 Mad 454 (458) = ILR (1956) Mad 1074 (DB). (30 All 271 and AIR 1940 Lah 315 (SB), **Dissented from.**)

[But see **AIR 1957 Andh Pra 237 (239) (FB).** (30 All 271 and AIR 1956 Mad 454, **Dissented from.**)]

(4) A person who draws, makes or executes a bond has to pay for the stamp required for the document. AIR 1957 Madh B 185 (186).

(5) So far as conveyance was concerned, B, who had signed it as vendee held liable to pay duty on it. **AIR 1936 Lah 449 (451) = 17 Lah 223 (SB).**

(6) Under this section it is duty of the debtor who has executed a promissory note to pay for the necessary stamp. AIR 1927 Nag 241 (242) °° (1875) 24 Suth WR Cr 1 (2) (DB).

(7) Ordinarily vendor has to pay stamp duty. **AIR 1949 FC 211 (215) = 1949 FCR 379** °° AIR 1957 Cal 709 (718) (DB) °° (1958) 28 Com Cas 29 (37) (Punj) °° **AIR 1955 Bom 79 (Pr 3) = ILR (1955) Bom 1074 (SB).**

(8) A company which has registered an instrument of transfer of shares which is not duly stamped, is not liable for payment of the proper stamp duty under the Act. **AIR 1955 Bom 79 (Pr 3) = ILR (1955) Bom 1074 (SB).**

(9) Transfer of shares of company — Transferor is liable to stamp duty — Transfer in favour of Government — Proviso 1 to S. 3 does not apply. AIR 1961 Punj 123 **(Prs. 4, 5) = ILR (1961) 1 Punj 1 (DB).**

(10) Clause (c) of the section provides that in the case of a conveyance the stamp duty shall be paid by the grantee, i. e., the person in whose favour the conveyance is effected. See AIR 1953 Hyd 225 (Pr 8) = ILR (1953) Hyd 259. (Under S. 55 (1) (d), T. P. Act read with S. 29 (c), Stamp Act, it is the duty of the buyer to prepare a stamped conveyance, tender it to the seller for execution and get it registered.)

(11) Landlord to whom certain property was conveyed was authorised by deed of assignment to collect back rents of property as agent of out-going landlord — Person liable to pay duty is out-going landlord and not new landlord. AIR 1929 Pat 395 (397).

(12) In the case of a lease the lessee is responsible for providing the expense of the proper stamp. AIR 1945 Nag 178 (179) = ILR (1945) Nag 928.

(13) It is the duty of the purchaser to bear the expense of the proper stamp for a certificate of sale which the Court has to issue to him in respect of the property purchased. **AIR 1930 Bom 393 (393) (FB)** °° **(1885) 9 Bom 47 (49) (SB).**

(14) Under Art. 45, Sch. I, an instrument of partition is chargeable with an ad valorem duty according to the value of the separated share or shares. But under cl. (g) of this section, the proportion in which the stamp duty is payable by the parties to the instrument is in regard to their shares in the whole property partitioned and not only in the separated portion of it. **(1892) 15 Mad 164 (166) (FB)** °° **AIR 1957 Andh Pra 237 (239) (FB).**

(15) The words "whole property partitioned" have been substituted for the words "property comprised therein" occurring in the corresponding provision of the Stamp Act of 1879. Even under that Act it was held that these words referred to the entire property sought to be divided. **(1880) 2 All 664 (666) (FB)** °° **AIR 1946 Mad 50 (50).**

(16) Defendant in a suit for partition can get his share separated without paying any

No. 62 (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument;

[†][(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance;

(bb) in the case of a policy of fire-insurance—by the person issuing the policy;]

(c) in the case of a conveyance (including a reconveyance of mortgaged property)—by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee;

(d) in the case of a counterpart of a lease—by the lessor;

(e) in the case of an instrument of exchange—by the parties in equal shares;

(f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates; and

(g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a Revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

[1879—Section 29; 1869—Section 6.]

[*] Substituted for the words and figure "No. 6 (Agreement to mortgage)" by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 5.

[†] Clauses (b) and (bb) were substituted for the original clause (b) ibid, 1906 (V of 1906), Section 4.

STATE AMENDMENTS

Andhra Pradesh:

In Clause (a) of Section 29, after the word and figure "Sch. I", insert the words, figure and letter "or the corresponding articles of Schedule I-A as the case may be."—Andh. Pra. Acts VI of 1922, Section 10 (25-4-1922) and XIX of 1959, Section 2 (1-4-1959.

Section 29 — Note 1 (contd.)

court-fee but he is liable to pay his share of the stamp duty on the final decree for partition which has to be stamped as an instrument of partition. AIR 1932 Mad 722 (723) = 55 Mad 975 (DB).

(17) Executant of an award directing a partition being the arbitrator, it is his duty under cl. (g) to direct the parties to provide him with the necessary stamp and not to deliver or publish his award on a plain paper. AIR 1928 Nag 166 (169).

(18) Document produced and tendered in evidence — Right to recover penalty is only under S. 44 and not S. 29 — Amount can be recovered only if included in costs of decree. AIR 1937 Mad 763 (764).

(19) If person seeking to admit unstamped instrument in evidence is not person liable under Sec. 29 he cannot be compelled to pay duty or penalty under S. 48 — He can only be penalised by not being able to use document which will remain impounded with Collector. AIR 1940 Lah 315 (318) = ILR (1940) Lah 637 (SB). (30 All 271, Not foll.) ** AIR 1957 Andh Pra 237 (239) (FB) ** AIR 1957 Trav-Co 251 (252, 253) ** AIR 1947 Lah 319 (319).

(20) Where there is an agreement between the parties to a document as to who is to bear the expense of providing the stamp duty, the agreement is binding only inter se and the State not being a party thereto, cannot, under the general law, enforce it. But though the State may not avail itself of any such agreement, it surely can, where the instrument itself recites that a particular person should pay and such a person is a party thereto, proceed on the footing that he is the person from whom the tax is due within the meaning of S. 48. AIR 1957 Andh Pra 237 (246) (FB).

(21) Whether or not there is an agreement between the parties, the State is free to proceed against all persons who would be liable under S. 29 and, in cases not provided by that section, it can proceed against all the parties to an instrument. AIR 1957 Andh Pra 237 (246) (FB). (Where there is an oral agreement not mentioned in the instrument, the State may ignore it.)

(22) Where an unstamped instrument of transfer of shares is brought by the company before the revenue authorities, the latter can impound it but cannot call upon the company to pay the duty. The only right given to them to proceed for the recovery of the duty is against the person who was liable to pay the duty, i. e., the executant of the instrument. AIR 1955 Bom 79 (Pr 3) = ILR (1955) Bom 1074 (SB).

(23) Liability to pay penalty and stamp duty in respect of rent deed or lease agreement — Lessor not liable — Levy on lessor invalid. (1967) 2 Mad LJ 507 (508).

(24) Partition deed — Stamp duty — Recovery of — Collector can recover it from any of the executors of deed. AIR 1970 Madh Pra 74 79 = 1969 MPLJ 827.

Bihar:

Section 9 of the Bihar Stamp (Amendment) Act, 6 of 1937 (1-1-1938), is as follows:

"9. **Application of Sections 23-A, 24 and 29 to instrument chargeable with duty under Schedule I-A.**—In applying Section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bihar Stamp (Amendment) Act, 1937, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A."

Goa, Daman and Diu:

Same as in Andhra Pradesh—Goa, Daman and Diu Act VIII of 1969, Section 11 (1-7-1969).

Madhya Pradesh:

Section 8 of the Central Provinces and Berar Indian Stamp (Amendment) Act, 6 of 1939 (1-7-1939), read with M. P. Act XVIII of 1957, Section 3 (2) (1-11-1957), is similar to Section 9 of the Bihar Act given above, except for the words and figures "under the Bihar Stamp (Amendment) Act, 1937", substitute the words and figures "under this Act, as amended by the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939"

Orissa:

Section 9 of the Orissa Stamp (Amendment) Act, VI of 1943 (26-4-1943), is similar to Section 9 of the Bihar Act given above, except, for the short title of the Bihar Act, substitute the short title "the Orissa Stamp (Amendment) Act, 1943."

Punjab: Haryana: Chandigarh:

In clause (a) of Section 29, for the word and figure "Schedule I", substitute the word, figure and letter "Schedule I-A".—Punjab Act VIII of 1922, Section 13 (15-1-1923) and V of 1957, Section 4; Act XXXI of 1966, Section 89.

Tamil Nadu:

In clause (a) of Section 29, omit the words, figure and letter "or the corresponding articles of Schedule I-A as the case may be", inserted by the previous amending Act.—T. N. Act XIV of 1958, Section 10 (1-10-1958).

Uttar Pradesh:

In its application to the whole State of Uttar Pradesh, in clause (a) of Section 29, for the word and letter "Schedule I", substitute the words and letters "Schedule I, I-A or I-B, as the case may be".—U. P. Act XLIII of 1958, Section 5 (with effect from 1-4-1959).

Section 29 — Note 1 (contd.)

(25) Party wishing to use document in evidence in support of his claim has to pay stamp duty first and it is open to him to recover the same under Section 44 from the person liable in the first instance under Section 29. AIR 1955 Mad 425 (429) = (1955) 2 Mad LJ 296.

(26) Where the entire stamp duty and penalty imposed on a partition deed is paid by one sharer, he can file a suit for contribution by virtue of Section 44 against other sharers by virtue of Section 29. AIR 1972 Mad 268 (269) = 85 Mad LW 274.

(27) Section 44 (1) is intended to help innocent parties — Distribution of stamp duty and penalty — Co-sharer paying stamp duty and penalty, claimed from other co-sharers — Section 44 (1) will not apply. AIR 1955 Bom 368 = 57 Bom LR 516 (DB).

(28) Compromise decree passed by Civil Court — Civil Court making no direction under Section 29 (9) — Document not tendered before Board of Revenue as evidence — Board of Revenue has no jurisdiction to hold that Civil Court passed decree without noticing insufficiency of stamp — Cannot direct Collector to impound document. 1970 All LJ 413 (416).

(29) In partition suit when Court by omitting to give appropriate direction in judgment regarding payment of stamp duty, leaves the judgment incomplete and difficulty in preparing the decree created thereby is overcome only when one of the parties furnish entire stamp duty, the time taken by Court will be excluded in computing period of limitation. AIR 1971 Cal 213 (218) (DB).

(30) Intention of parties to be determined from documents itself and not from surrounding circumstances. Inadequacy of price or payment of costs of stamp by executant cannot alter its nature. AIR 1962 Pat 53 (55) (DB).

Section 29-A:

Andaman and Nicobar:

In its application to the Andaman and Nicobar Islands, Section 29-A, inserted after Section 29, is the same as that of West Bengal, subject to the following modification, namely, in place of the short titles of Bengal Acts, the short title "the Indian Stamp (Andaman and Nicobar Islands Amendment) Regulation, 1957" is to be substituted.—Regn. III of 1957, Section 9 (1-8-1957).

West Bengal:

After Section 29 of the main Act the following shall be inserted, namely:—

"29-A. **Application of Sections 23A, 24 and 29 to instrument chargeable with duty under Schedule I-A.**—In applying Section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, or the Indian Stamp (Bengal Amendment) Act, 1935, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A".—Beng. Acts III of 1922, Section 9 (1-4-1922) and XII of 1935, Section 5 (1-6-1935).

30. **Obligation to give receipt in certain cases.**—Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give* a duly stamped receipt for the same.

†[Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

[1879—Section 58; 1869—Section 27 (a); 1862—Section 29; 1860—S. 15.]

[*] This does not preclude evidence of payment other than receipt even where receipt has been granted but has not been produce or could not be produced in evidence.

[†] Added by the Indian Stamp (Amendment) Act, 1906 (V of 1906), Section 5.

CHAPTER III

ADJUDICATION AS TO STAMPS

31. **Adjudication as to proper stamp.**—(1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector,

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Section 30 — Note 1

(1) Even when a receipt is given and is not produced evidence aliunde is admissible under Section 91 of the Evidence Act. (1898) 8 Mad LJ 269 (271) (DB).

(2) Where a person gives an unstamped receipt and refuses to give a stamped one on the same being demanded, he commits an offence under Section 62 as well as one under S. 65. AIR 1933 Bom 462 (463) (DB) °° (1900) 27 Cal 324 (333) (DB).

(3) Demand contemplated by this section is demand by the person from whose pocket the money comes and who has a right to demand the receipt; it is not the demand of the intermediary who actually pays the money. AIR 1933 Bom 462 (464) (DB).

(4) Receipts granted by Presidents of District Boards for amounts transferred from Provincial to Local Funds by adjustments in the Collector's books of accounts are exempt from stamp duty. (1911) 2 Mad WN 293 (294) (FB).

(5) Receipt of fresh stamps in lieu of spoiled or unused stamps — No stamp is necessary. (1931) Beng SM (Vol 1), p. 32 °° (1940) Bihar SM, p. 116.

(6) Section has no application where immovable property exceeding Rs. 20 in value is made over by a debtor to a creditor in satisfaction of a pre-existing liability. AIR 1932 Nag 172 (172, 173) = 28 Nag LR 216.

(7) It is not incumbent upon the person receiving money by money order to give another receipt duly stamped. (1912) 34 All 192 (196) (DB). (He is only required to give receipt for sum paid.)

(8) Word "money" means and includes not only coin but also bank notes, Government promissory notes, bank deposits and otherwise and generally any paper obligation or security that is immediately and certainly convertible into cash so that nothing can interfere with or prevent such conversion. (1881) 3 All 788 (793) (FB).

Section 31 — Note 1

(1) Unexecuted instrument may be brought to the Collector merely for getting a decision. AIR 1932 Cal 736 (737) = 59 Cal 1171 (SB). (It may be that after decision parties will still come to conclusion that instrument should

and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than *[fifty naye paise]) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from the penalty which he may have incurred

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Section 31 — Note 1 (contd.)

be entered into and that other steps will have to be taken.)

(2) When an adjudication as to proper stamps payable has been made under Section 31 of the Stamp Act and the duty is paid, without getting the document impounded under S. 33 or when the document is not sent to the Collecter under Section 38 (2), there is no case pending before the Chief Controlling Revenue Authority and that Authority cannot state a case itself for the opinion of the Court and cannot similarly be asked to state a case for the opinion of the Court. AIR 1960 Cal 340 (Pr 17). (AIR 1932 Cal 736 (SB), Foll.; AIR 1950 SC 218, Disting. and Expl.)

[See (1973) 1 Mad LJ 390 (392,393)].

(3) If the Collector is in doubt as to the amount of duty chargeable on an instrument, he may refer the question under Section 56, to the Chief Controlling Revenue-authority for decision. (1933) Mad SMP 36. (There is no objection to presentation of documents for adjudication under this section in district different from that in which they were executed or property concerned lay.)

(4) If the executant of a deed who is in doubt about the proper stamp, consults a registering officer on the subject before formal presentation the required information may be given to him without impounding the deed, but it should be explained to the party that if he wishes to obtain an authoritative opinion he must apply to the Collector under this section. (1933) Mad SM P. 36.

(5) Time limit in proviso (a) to S. 32 does not govern application under this section. AIR 1946 Mad 437 (440) = ILR (1947) Mad 141 (DB).

(6) Collector has no power to impound the document presented to him for his opinion. AIR 1961 SC 787 (Pr 5). (AIR 1956 All 453 (FB), Affirmed; Observations in AIR 1932 Cal 736 held, obiter.)

(7) When an instrument, which has already been "executed" within the meaning of that term as defined in S. 12 (2) of the Act is presented before the Collector for his opinion under Section 31 of the Act, the Collector cannot, if he is of opinion that the instrument requires stamp duty, which has not been paid or has only partly been paid, impound the instrument under Section 33. AIR 1956 All 453 (457) = ILR (1956) 1 All 687 (FB). (AIR 1951 All 851, Approved; AIR 1932 Cal 736 (SB), Explained; AIR 1946 Mad 437, Disting.; Affirmed in AIR 1961 SC 787.)

(8) The procedure, in cases to which Sections 31 and 32 apply, is that where an instrument is brought before the Collector, he proceeds to give his opinion. After the Collector has given his opinion it is left entirely to the applicant to pay the duty or not and the Collector cannot under either of these sections compel its realisation nor can he levy any penalty though it may be that he can order the prosecution of the applicant. Moreover, even if he decides to pay, the applicant is allowed an unlimited period of time within which to make payment. AIR 1956 All 453 (456) = ILR (1956) 1 All 687 (FB). (Affirmed in AIR 1961 SC 787.)

(9) Although this section speaks of the person bringing the document to the Collector, such person cannot be any person in the world but must at least be a person authorised by a party to the document to present it if he is not one of the parties himself. AIR 1952 Cal 815 (Pr 6) = ILR (1953) 2 Cal 93 (SB).

(10) Proxies.—Where a shareholder complies with the requirements of Articles of Association and pays on a proxy in the form prescribed by the Article, stamp duty on the footing that it is a proxy and not a general power of attorney, the chairman has no option but to accept the proxy even if he comes to a conclusion that the stamp duty was not proper. The proper procedure in such a case would be to refer the matter to the Collector under Section 31 of the Stamp Act and to postpone the declaration of the result of the poll until the decision of the Collector was obtained. AIR 1952 Mad 515 (Prs 20, 20 (b)) = ILR (1952) Mad 218 (DB).

(11) Document submitted to Collector under section 31 — Determination of duty — Subsequent order of impounding document by Col-

under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

[1879—Section 30; 1869—Section 39; 1862—Section 19.]

[*] Substituted for "eight annas" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 3 (1-10-1958).

STATE AMENDMENTS

Madhya Pradesh:

Amendment made in sub-section (1) of Section 31 is the same as that made therein by the Central Act XIX of 1958.—M. P. Act XVIII of 1958, Section 2 (c) (1-10-1958).

Tamil Nadu:

Amendment made in sub-section (1) of section 31 is the same as that made therein by the Central Act XIX of 1958.—T. N. Act XIV of 1958, Section 11 (1-10-1958).

Note.—These amendments have become superfluous because of Act XIX of 1958.

32. Certificate by Collector.—(1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(a) the Collector determines that it is already fully stamped, or

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Section 31 — Note 1 (contd.)

lector upon the parties refusal to pay deficit duty—Collector having become functus officio upon determination of duty, the order impounding document is without jurisdiction — Order can be quashed by issue of certiorari. AIR 1951 All 851 (852, 853) = 1951 All LJ 546 (DB).

(12) It is no doubt true that Section 31 of the Indian Stamp Act empowers a party to obtain the opinion of the Collector as to proper stamp duty to be levied even without any instrument actually in existence. But still a reference to the High Court under Section 57 of the Act must be based upon an actual case in existence pending before the Revenue Authority and not on a mere abstract or hypothetical question which may never fructify into actuality. AIR 1967 Mad 10 (11, 12) (FB).

(13) The certificate issued under Section 32 when an instrument is brought to the Collector under Section 31 is in respect of that particular document only and cannot operate on any other document. AIR 1972 All 519 (522) = 1972 All LJ 632.

(14) Where the authorities summoned the deed for purpose of finding out whether it had been properly stamped or not, the impugned order can, by no stretch of imagination be justified under Section 31 (1). 1966 All LJ 514 (517).

Section 32 — Note 1

(1) When an instrument is brought before the Collector, he proceeds to give his opinion. After the Collector has given his opinion it is left entirely to the applicant to pay the duty or not and the Collector cannot under either of these sections compel its realisation nor can he levy any penalty though it may be that he can order the prosecution of the applicant. Moreover, even if he decides to pay, the applicant is allowed an unlimited period of time within which to make payment. AIR 1956 All 453 (456) = ILR (1956) 1 All 687 (FB). (Affirmed in AIR 1961 SC 787.)

(2) Presentation of executed document to Collector for his opinion — Collector has no power to impound it. AIR 1961 SC 787 (Prs 5, 6). (AIR 1956 All 453 (FB), Affirmed; Observations in AIR 1932 Cal 736 held obiter.)

(3) When the instrument is not chargeable to duty the Collector shall certify that the instrument is not so chargeable. The endorsement by the Collector must be on the instrument itself. A letter from the Collector expressing his opinion that no stamp duty was necessary is not a certificate within the meaning of this section. AIR 1942 Mad 381 (381).

(4) Where a document comes into the possession of a Collector under Section 31 for his opinion within one month of its execution and the Collector determines the proper duty payable thereon, the Collector has no jurisdiction to impound the document under Section 33 if the party refuses to pay the deficient duty. AIR 1951 All 851 (Prs 9, 10) = ILR (1952) 1 All 870 (DB).

(5) When an instrument which has already been "executed" within the meaning of that term as defined in Section 2 (12) is presented before the Collector for his opinion under Section 31 of the Act, the Collector cannot, if he is of opinion that the instrument requires stamp duty which has not been paid or has only partly been paid, impound the instrument under Section 33. AIR 1956 All 453 (457) = ILR (1956) 1 All 687 (FB). (AIR 1951 All 851, Approved.)

(6) Sub-section (3) makes the Collector's certificate final on the question of stamp. (1911) 7 Nag LR 26 (29) (DB) ** AIR 1926 Sind 211 (213) ** AIR 1935 Sind 48 (49) = 28 Sind LR 266 ** (1973) 1 Mad LJ 390 (392).

(7) Board of Revenue has no controlling power over the Collector, when the latter grants a certificate under Section 32 without referring the case under Section 56 (2). (1933) Mad SM, p. 37. (Instrument brought after time mentioned — Adjudication fee required under Section 31 cannot be levied in addition to penalty and stamp duty.) ** AIR 1932 Cal 736 (737) = 59 Cal 1171 (SB). (Subject disappointed with decision of Collector under Section 31 cannot apply to Board of Revenue to interfere with ruling of Collector before Collector has impounded instrument under Section 33.)

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse—

(a) any instrument executed or first executed in °[India] and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(b) any instrument executed or first executed out of °[India] and brought to him after the expiration of three months after it has been first received in °[India]; or

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Section 32 — Note 1 (contd.)

(8) Collector granting certificate under S. 32 without referring case under Section 56 (2) — Case cannot be referred under Section 57 to High Court by Revenue-authorities. AIR 1932 Cal 736 (736, 737) = 59 Cal 1171 (SB) °° (1902) 25 Mad 751 (752) (FB). (Effect is to make determination by Collector under S. 31 duly endorsed under this section final in respect of that instrument.) °° (1902) 25 Mad 752 (760) (FB) °° AIR 1926 Bom 51 (52) (DB) °° AIR 1918 All 181 (182) = 40 All 128 (SB).

(9) After subject refuses to make payment of stamp duty as determined under Section 31 Collector impounding document under S. 33 and proceeding to require payment of duty and penalty under Section 40 — Party dissatisfied with Collector's decision can apply under Section 56 to Chief Controlling Revenue-authority to intervene in such proceeding before it is completed. (1902) 25 Mad 752 (760) (FB) °° AIR 1932 Cal 736 (737) = 59 Cal 1171 (SB) °° AIR 1934 Cal 803 (805) = 61 Cal 556 (SB).

(10) Collector endorsing instrument in disregard of any clauses in proviso — Decision of Collector would be final and not open to question — Collector's action is only irregular. (1881) 3 All 115 (117) (DB) °° AIR 1942 Mad 381 (381) °° (1973) 170 ER 139 (139)= Peake 230.

[But see (1937) 20 Nag LJ 246 (247).]

(11) Collector cannot endorse an instrument brought to him for adjudication after the expiry of the period mentioned in Cls. (a) and (b) of the proviso. AIR 1942 Mad 381 (381). (Letter from Collector expressing his opinion that no stamp duty was necessary is not certificate.) °° AIR 1935 Nag 54 (55) = 31 Nag LR 162.

(12) Instrument brought to Collector within one month — Applicant is entitled to endorsement of Collector's certificate on payment of deficit duty but without penalty. AIR 1948 Mad 437 (440) = ILR (1947) Mad 141 (DB). (Application may be made after expiry of one month from date of execution of instrument.)

(13) A pronote bearing adhesive stamp while it ought to have been written on a hundi paper of denominaiton of 25 paise becomes valid and admissible in evidence when the Collector makes an endorsement under Section 32 to the effect "the instrument has been duly stamped" on the instrument. 1971 Kash LJ 45 (48).

(14) An endorsement of due stamping on a hundi made by the Collector under Section 32 (3) is without authority of law in view of proviso (c) to Section 32 (3) and as such the hundi cannot be deemed to be duly stamped so as to be admissible in evidence. AIR 1971 All 280 (285) = 1971 All LJ 20 (FB).

(15) Hundi for sum exceeding Rs. 30,000 — Hundi is not covered by R. 18 of Stamp Rules — Not admissible in evidence. AIR 1954 Punj 301 (303) = 56 Pun LR 502 (DB).

(16) The certificate issued under Section 32 when an instrument is brought before the Collector under Section 31 is in respect of that particular document only and cannot operate on any other document. AIR 1972 All 519 (522) = 1972 All LJ 632.

(17) The legal fiction embodied in Section 32 under which a document is deemed to be duly stamped is restricted in the case of documents other than those which are excepted under the provisos (a), (b), (c) and (d) of the section. The rule of interpretation is that a legal fiction is to be limited to the purpose for which it was created and should not be extended beyond that legitimate field. AIR 1971 All 280 (283) = 1971 All LJ 202.

(c) any instrument chargeable †[with a duty not exceeding ten naye paise] or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof on paper not duly stamped.

[1879—Section 31; 1869—Section 39; 1862—Section 19.]

[°] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

[†] Substituted for the words "with the duty of one anna or half an anna", ibid, 1958 (XIX of 1958), Section 4 (1-10-1958).

STATE AMENDMENTS

Andaman and Nicobar:

In its application to the Andaman and Nicobar Islands, in Section 32, in the Proviso to sub-section (3),—

(a) in clause (a), after the words "any instrument", insert the words, brackets, letters and figure "other than an instrument chargeable with a duty under clause (bb) of the first Proviso to section 3";

(b) omit the word "or" at the end of clause (b);

(c) after clause (c), insert the following new clause, namely:—

"(d) any instrument chargeable with duty under clause (bb) of the first Proviso to section 3 and brought to him after the expiration of three months of the date on which it is first received in the Andaman and Nicobar Islands."—Regn. III of 1957, Section 10 (1-8-1957).

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the 1st day of April, 1959, clause (c) of the Proviso to sub-section (3) of Section 32 reads, after amendments, as follows:—

"(c) any instrument chargeable with the duty of twenty paise or a mortgage of crop (Article 36 (a) of Schedule I-A) chargeable under clauses (aa) or (bb) of section 3 with a duty of forty paise or any bill of exchange or promissory note when brought to him, after the drawing or execution thereof, on paper not duly stamped."—Andh. Pra. Acts VI of 1922, Sec. 11 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIX of 1959, Section 8 (1-4-1959); X of 1967, Section 3 (3) (20-10-1967).

Assam:

In its application to the State of Assam, the amendments made in Section 32 are the same as those of Andaman and Nicobar, except the following, namely, for the words "the Andaman and Nicobar Islands", the word "Assam" is to be substituted.—Assam Act VII of 1950, Section 6 (1-4-1950) read with Assam Act II of 1955 (31-3-1955).

Bihar:

In its application to the State of Bihar, same as that of Andaman and Nicobar except, in clause (d), for the word "of" occurring before the words "the date", substitute the word "from" and for the words "the Andaman and Nicobar Islands", substitute the word "Bihar".—Bihar Act VI of 1937, Section 10 (1-1-1938).

Goa, Daman and Diu:

In its application to the Union territory of Goa, Daman and Diu, in the proviso to sub-section (3) of Section 32,—

(a) in clause (a), after the words "any instrument", insert the words "other than an instrument chargeable with duty under item (2) of the first proviso to Section 3;

(b) Word "or" at the end of clause (b) omitted and the same inserted at the end of clause (c);

(c) after clause (c) insert the following:—

"(d) any instrument chargeable with duty under item (2) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in the Union territory."—Goa, Daman and Diu Act VIII of 1969, Section 12 (1-7-1969).

Madhya Pradesh:

In its application to the State of Madhya Pradesh on and from 1-11-1957, amendments are same as that of Andaman and Nicobar, except, in clause (d) for the word "of" occurring before the words "the date" substitute the word "from" and for the words "the Andaman and Nicobar Islands", substitute the words "Madhya Pradesh".—C. P. Act VI of 1939, Section 9 (1-7-1939) read with M.P. Act XVIII of 1957, Section 3 (2).

Orissa:

In its application to the State of Orissa, same as that of Andaman and Nicobar, except, for the word "of" occurring before the words "the date", substitute the word "from" and for the words "the Andaman and Nicobar Islands", substitute the words "the State of Orissa".—Orissa Act VI of 1943, Section 10 (26-4-1943).

Punjab: Haryana: Chandigarh:

In its application to the whole States of Punjab and Haryana and Union territory of Chandigarh, clauses (c) and (d) of the Proviso to sub-section (3) of Section 32 read, after amendments, as follows:—

"(c) any instrument chargeable with the duty of one anna or half an anna or any bill of exchange or promissory note, or acknowledgment or delivery order, when brought to him, after the drawing or execution thereof, on paper not duly stamped, or

(d) any instrument chargeable with duty under clause (bb) of the first Proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922 and brought to him after the expiration of three months from the date on which it is first received in Punjab."—Punj. Act VIII of 1922, Section 14 (with effect from 15-1-1923); East Punj. Act XXVII of 1949, Section 4 (with effect from 1-4-1950); Punj. Act V of 1957, S. 4; Central Act XXXI of 1966, Section 89 (1-11-1966).

Tamil Nadu:

In its application to the whole State of Tamil Nadu, Cl. (c) of the Proviso to sub-section (3) of Section 32 reads, after amendments, as follows:—

(c) any instrument chargeable with a duty of twenty paise, or a mortgage of crop (Article 41 (a) of Schedule I) chargeable under section 3 with a duty of forty paise or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped"—Mad. Acts VI of 1922, Section 11 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIV of 1958, Section 12 (1-10-1958); VIII of 1962, Section 4 (3) (10-9-1962).

Uttar Pradesh:

(i) In its application to the State of Uttar Pradesh, same as that of Andaman and Nicobar, except, in clause (d), for the word "of" occurring before the words "the date", substitute the word "from" and for the words "the Andaman and Nicobar Islands", substitute the words "Uttar Pradesh".—U. P. Act III of 1936, Section 9 (1-5-1936).

(ii) In clause (c) of Proviso to sub-section (3) of S. 32, for the words "ten naye paise", substitute the words "twenty paise"—U. P. Act XXV of 1962, S. 6 (1-1-1963).

West Bengal:

In its application to the State of West Bengal, the amendments are the same as those of Andaman and Nicobar, except the following, namely, for the words "the Andaman and Nicobar Islands", the words "West Bengal" are to be substituted.—Beng. Act III of 1922, Section 10 (1-4-1922).

CHAPTER IV
INSTRUMENTS NOT DULY STAMPED

33. Examination and impounding of instruments.—(1) Every person having by law or consent of parties authority to receive evidence, and every person in

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SECTION 33 — SYNOPSIS

1. Scope.
2. Persons having authority by consent of parties to receive evidence.
3. Person in charge of public office.
4. "Is produced or . . . . . his functions."
5. "Duly stamped."
6. "Impound."
7. Objection by Court or officer suo motu.
8. Proviso (a).

charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in °[India] when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

(a) the †[State Government] may determine what offices shall be deemed to be public offices; and

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Section 33 — Synopsis (contd.)

9. High Court.

10. Revision against orders as to impounding.

1. Scope.—(1) Duty of examining and impounding documents is obligatory on the persons mentioned and the section leaves no option in this respect. (1934) Pun SM, Chap 3, Notes on Sections, p. 12. (Most important object is to stop every means of escape from liability which law imposes upon executants of instruments, to stamp duty.) ** AIR 1926 All 478 (478). (Instrument to Collector — Decision finally rests with him whether it was really insufficiently stamped or not.)

(2) It is the duty of the Court to notice and decide stamp objections when such objections are brought to the notice of the Court. ILR (1951) 1 Cal 665 (668).

(3) Section 33 prescribes for examination and impounding of an instrument by the Court of first instance regarding the sufficiency of the stamp. AIR 1958 Pat 434 (437) = 37 Pat 658 (DB).

[See also ILR (1951) 1 Cal 665 (668). (The Court ordinarily looks with disfavour on a stamp objection taken by counsel, when such objection does not invalidate the document entirely.)

(4) Where a Division Bench of the High Court not only impounded an insufficiently stamped document produced before it in appeal but assessed the amount of the penalty and sent it to the Collector for realising the amount, it was held that the judgment relating to the assessment of penalty was not warranted by the provisions of the Stamp Act and did not constitute a bar to hearing the matter by the Full Bench in reference under Section 55 after the assessment of penalty by the Collector. **AIR 1955 Hyd 17 (Pr 16) = ILR (1954) Hyd 562 (FB).**

(5) In order to attract the provision of S. 33 (1) three conditions must be fulfilled: (1) the authority empowered to impound a document must be the authority specified therein; (2) the instrument in question is not stamped according to the Act; and (3) the instrument is produced or comes in the performance of his functions. AIR 1959 Pat 353 (354) = 37 Pat 1423 (DB).

(6) Section does not empower authorities to direct party to produce document for purpose of ascertaining whether it was properly stamped or not. 1966 All LJ 514 (516).

(7) While Section 33 uses the word "produced" in respect of an instrument chargeable to stamp duty, Section 35 uses the words "admitted in evidence" or "acted upon" in regard to an unstamped instrument. The law, therefore, makes a distinction between production of an instrument and its admission in evidence or in acting upon it. AIR 1971 All 434 (437) = 1971 All WR (HC) 410.

(8) There is no provision in the Act, whereby the Court can embark upon the enquiry as to the valuation of the property in order to determine the quantum of stamp and also the quantum of penalty. 1966 Cur LJ 528 (529) (Punj).

(9) Case not pending before Chief Controlling Revenue Authority — Reference not competent. AIR 1960 Cal 340 (344).

(10) Document validly executed under the Act — No other formalities under any other law are necessary to make it chargeable to stamp duty. **AIR 1968 Andh Pra 213 (218) = (1967) 2 Andh LT 395 (FB).**

(11) Liability of company to pay stamp duty in respect of transfer of shares not duly stamped — There is no provision in the Companies Act or in the Stamp Act which would make the company liable for payment of the proper stamp duty, as the liability is upon the executant. **AIR 1955 Bom 79 (80) = 56 Bom LR 525 (SB).**

(12) For purposes of sections 3, 33, 35 and 36 an "instrument" means an instrument chargeable with duty, irrespective of whether such instrument falls or does not fall within the definition thereof contained in Section 2 (14). AIR 1971 All 287 (289) = 1970 All WR (HC) 348.

(13) Extract from account book filed with plaint — Extract not certified by Court after

(b) the †[State Government] may determine who shall be deemed to be persons in charge of public offices.

[1879—Section 33; 1869—Sections 22, 23.]

[°] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

[†] Substituted for "collecting Government" by A.L.O., 1950.

STATE AMENDMENTS

Pondicherry:

Same as in Tamil Nadu—Pondi. Act XXI of 1970, Section 6 (5-8-1970).

Tamil Nadu:

In its application to the State of Tamil Nadu, in Section 33,—

(i) Sub-section (1) shall be lettered as Cl. (a) thereof and after the said clause insert the following':—

"(b) Notwithstanding anything contained in section 31, but without prejudice to the provisions of clause (a), the Collector before whom any instrument is brought under section 31 for determining the duty with which the instrument is chargeable, shall, if it appears to him that such instrument is not duly stamped, impound the same:

Provided that nothing contained in this clause shall be deemed to authorise the Collector to impound any instrument which has not been executed but is brought to him under section 31 for determining the duty with which the instrument is chargeable or any instrument which he is authorised to endorse under section 32.";

(ii) in sub-section (2),—

(a) for the words "every such person", substitute the words "every such person and the Collector"; and

(b) for the words "coming before him," substitute "coming or brought before him".—T. N. Act XXIV of 1967, Section 6 (22-4-1968).

Section 33 — Note 1 (contd.)

verification with original — Original book not produced—Court has no power to levy duty and penalty treating extract as 'bond'. (1965) 2 Andh WR 462 (465).

(14) Unstamped counterpart of partnership deed — Loss of original stamped deed not proved — It will be admitted in evidence in Court of law upon proper penalty being paid. AIR 1951 Punj 441 (443) = 53 Pun LR 278.

2. Persons having authority by consent of parties to receive evidence.—(1) These words are intended to cover the cases of arbitrators, local commissioners, etc., who are authorised to receive but are not public officers. AIR 1932 Lah 495 (497) = 13 Lah 745 (SB). (Condition that person or officer concerned must be acting in performance of his functions holds good in every case.)

(2) The words "every person . . . . before whom any instrument . . . . ." is produced or comes in the performance of his functions in Section 33 refer, firstly, to production before judicial or other officers performing judicial functions as evidence of any fact to be proved and, secondly, to other officers who have to perform any function in regard to those instruments when they come before them, e.g., registration. AIR 1961 SC 787 (789).

3. Person in charge of public office.—(1) "Public officer" is not necessarily a "person in charge of a public office". (1934) Pun SM, Chap. 3, Notes on Sections, p. 12 °° (1933) Mad SM, p. 38 °° (1933) Mad SM, p. 39. (Special Deputy Tahsildar on resettlement duty is a "person in charge of a public office".)

(2) Office of a returning officer appointed for the purposes of an election to a legislative body constituted under the Government of India Act is not a public office. (1940) Bihar SM, p. 120.

(3) The record room of the District Judge is a public office and the District Judge is in charge of the said office. AIR 1955 All 615 (615).

(4) The District Registrars appointed as ex officio Assistant Registrars of Joint Stock Companies under the Companies Act by the Board of Revenue pursuant to the powers delegated to it by the State Government to appoint Collectors under the Act have been empowered to exercise the powers vested in the Collector under the provisions of the Act and they have, therefore, jurisdiction to adjudicate on the proper stamp duty leviable on a document and demand payment. AIR 1959 Andh Pra 664 (666).

(5) Jurisdiction of District Judge to determine proper stamp duty or to assess penalty—He can only send instrument to Collector under S. 38 (2) and Collector is to express opinion under Section 40 about proper stamp duty and penalty. 1969 All WR (HC) 734 (735).

4. "Is produced or . . . . his functions".—(1) Document should come before the Judge (or other officer) in the performance of his functions as a Judge (or other officer). AIR 1943 Nag 97 (98) = ILR (1943) Nag 520 °° 1906 Pun LR No. 131, p. 428 (431) (FB) °° AIR 1918 Cal 1026 (1027) (DB).

(2) If once an officer, rightly or wrongly admits an insufficiently stamped document in evi-

Section 33 — Note 4 (contd.)

dence and by acting on them disposes of the matters in which they were filed, thereafter he becomes functus officio and will no more have any power either to take action by himself to collect the deficit stamp duty and penalty or for that purpose impound the documents and send them. ILR (1972) Andh Pra 1339 (1346 to 1348)**AIR 1942 Lah 257 (260) (SB)**AIR 1947 Pat 443 (444) (DB) ** 1906 Punj LR No. 131, p. 428 (431) (FB).

(3) Document not duly stamped registered and returned to party — Registrar cannot subsequently send for deed and impound it. **AIR 1932 Lah 495 (498) = 13 Lah 745 (SB).**

(4) Instrument admitted in evidence and judgment delivered — Court cannot reopen matter and impound document. AIR 1937 Mad 763 (764) ** AIR 1951 All 851 (853) = ILR (1952) 1 All 870 (DB). (Collector determining duty under Section 31 — Party intimating to Collector that he is not prepared to pay deficient duty as he did not intend to act upon the document — Collector becomes functus officio and has no jurisdiction to impound document.) ** AIR 1949 Nag 214 (215) = ILR (1948) Nag 950. (Action under Section 61 is the only course left open in such case.)

(5) The phrase "produced or comes in the performance of his function" as used in this section means production of the instrument concerned in evidence or for the purpose of placing reliance upon it by one party or the other. **AIR 1956 All 453 (457) = ILR (1956) 1 All 687 (FB).** (AIR 1951 All 851, Approved; AIR 1946 Mad 437, **Distinguished.**) ** AIR 1951 All 851 (852, 853) = ILR (1952) 1 All 870 (DB).

(6-7) When the expression "is produced" is considered in juxtaposition with the expression "comes in the performance of his functions" along with the object of the Act production of the document is a production within the meaning of Section 33 (1). AIR 1959 Pat 353 (354) = 37 Pat 1423 (DB).

(8) Sale certificate granted to purchaser by Court had only four-anna stamp though it should have borne stamp of eight annas — Copy of certificate sent to Sub-Registrar who informed Judge that it was insufficiently stamped — Judge got certificate back from purchaser and impounded it — Court held could not impound document when it was presented to it again. AIR 1930 Bom 392 (393) (DB).

(9) Sale certificate placed before the Judge for signature for the first time cannot be impounded under this section. **AIR 1930 Bom 392 (394) (FB).**

(10) Mere production of a document in compliance with an illegal demand will not confer authority to impound. AIR 1942 Lah 265 (266). (Word "produce" means produced in ordinary course of law and not produced under compulsion.) ** **AIR 1932 Lah 495 (498) = 13 Lah 745 (SB).**

(11) On receiving complaint against person for having committed offences under Ss. 64 (c) and 68 (c), Magistrate issuing search warrant — Number of insufficiently stamped documents seized — Magistrate can impound them. (1902) 25 Mad 525 (528).

(12) Where document was voluntarily tendered by a party as part of his evidence and it was not withdrawn when the Inspector of Stamps raised a question regarding the sufficiency of stamp and the party contested the matter and argued that the stamp affixed thereon was sufficient — **Held,** that those facts were enough to constitute 'production' within the meaning of the section. AIR 1958 All 659 (659) (DB).

(13) Reading R. 25 of the Rules made under Section 69 of the Registration Act with S. 33, Stamp Act, a registering officer has only the right to impound a document presented before him if it appears to him that the same is not duly stamped on the valuation disclosed therein. AIR 1960 Pat 470 (471) (DB).

(14) Court having no jurisdiction to impound document, impounding it and sending it to Collector — Collector or higher Revenue authorities cannot impound it. **AIR 1942 Lah 257 (260) (SB).** (Court ordering document to be returned as not proved — Document is no longer part of judicial record and cannot properly come before Court again in performance of its functions unless it is allowed to be tendered in evidence on review — It remains in Court's custody only to be returned to party concerned.) ** AIR 1942 Lah 265 (267).

(15) If the documents produced either voluntarily or in obedience to the orders of the Court are wholly irrelevant, the order of production cannot be said to be a legal order and the production of those documents will not be a production as contemplated by Section 33. Where, however, a document not duly stamped, is relevant for an enquiry or a case of which the officer is in seisin and that document is produced by a party to that enquiry or case, either voluntarily or in obedience to the order or summons of a Court, such a document is "produced or comes in the performance of his functions" as laid down in the aforesaid section. AIR 1959 Pat 353 (354) = 37 Pat 1423 (DB).

(16) Copy of entry not properly stamped attached to plaint and suit compromised at first hearing — Original entry never produced or came before Court — Action under Section 33 held could not be taken in respect of copy of entry. **AIR 1934 Lah 637 (637) (SB).**

(17) Collector, in pursuance of directions to curtail activities of money-lenders lending money at exorbitant rates of interest instructed Tahsildar to make certain inquiries — Tahsildar summoned certain money-lenders to produce their chittas — On their production Tahsildar impounded them as they were insufficiently stamped — Tahsildar held had no power to impound them. **AIR 1945 Pat 96 (97) = 23 Pat 351 (355) (SB).**

(18) Court collected deficiency in stamp duty and penalty and admitted document in evidence under proviso (a) to Section 35 and granted certificate under Section 42 (1) — Collector on document being subsequently produced before him cannot impound it under Section 33 (1). AIR 1941 Lah 65 (68) = ILR (1940) Lah 628 (SB) ** AIR 1946 Mad 437 (441) = ILR (1947) Mad 141.

(19) The Stamp Act contemplates the production of the instrument itself and not its copy nor its prepared replica for purposes of impounding and the power and authority to impound which solely depends on the terms of the statute cannot be invoked apart from them. (1961) 1 Andh WR 183 (187) (DB). ((1957) 2 Andh WR 280, **Overruled.**)

Section 33 — Note 4 (contd.)

(20) A mere handing over of a document, even if it is as a result of a summons from Court, cannot be said to be production. There must be volition on the part of the person bringing it into Court to use it for some purpose. The mechanical act of carrying the document as a result of an order of Court and handing it over to the officer of Court would not be production though such act would come within the meaning of the term 'comes before the Court in the performance of its judicial functions.' AIR 1953 Mad 698 (701).

(21) Where parties fail to furnish requisite stamps for a final decree for partition the Court cannot draw up the decree on insufficiently stamped paper and impound it under this section. **AIR 1956 Mad 207 (208) = ILR (1956) Mad 132 (FB).**

(22) Where the Inspector of Stamps, while inspecting the records in the record room of the District, noticed an award and a decree passed in terms of the award which documents, in his opinion should have been stamped, and sent a report to that effect to the Chief Inspector of Stamps and a copy thereof to the District Judge it was held that if the District Judge was, on perusal of the report of the Inspector of Stamps, of the opinion that the decree and the award had not been duly stamped he had power under this section to impound the same. AIR 1955 All 615 (615).

(23) In issuing notice under R. 16 of O. 21 of Civil P. C., it is incumbent upon the executing Court to satisfy itself whether or not a valid transfer of the decree had been effected and for that purpose it is entitled in law to call upon the decree-holder to produce before it his title deed, and if in obedience to that order the decree-holder produced the deed of assignment it cannot be said that it was a production against his will or that the document did not come before it in the performance of its functions. AIR 1959 Pat 353 (354) = 37 Pat 1423 (DB).

(24) When a defendant has tendered that document as his evidence — Document has been 'produced' within the meaning of S. 33 — It is competent for the Court to impound it. 1969 All WR (HC) 793 (794).

(25) Where an order impounding a document was passed by a Sub-Judge on 25-2-61 after the suit in which the said document was filed had been decreed by the Sub-judge on 3-12-1960, held the Judge had become functus officio after the suit had been decreed by him and he had no power under Section 33 to impound the document on 25-2-61, as the document was not produced or did not come before him "in the performance of his functions" in regard to the said document on that date. ILR (1970) 1 Delhi 606 (610 and 611).

(26) Document produced before Collector in compliance with notice from him under Para. 239 of Executive Instructions of Inspector-General of Registration — Document comes to him in performance of his functions. 1952 Nag LJ 440 (443) (Rev).

(27) The impounding of a document under Section 33 (1) of the Act takes place not when it is produced before the Court or when the Court expresses its intention to impound the same, but only when such an order is carried out, i. e., when the Court takes the document into its custody and makes an endorsement thereon. **AIR 1966 Orissa 214 (218) = 32 Cut LT 237 (FB).**

(28) When the document was merely produced before Court and the petitioner did not seek to get that document admitted in evidence so far, this was plainly a case to which sub-sec. (2) of Sec. 38 applied so that the Court should have sent the document in original to the Deputy Commissioner for necessary action under Sec. 40 of the Act. AIR 1959 Mys 172 (172) = 35 Mys LJ 380.

(29) The power to impound an instrument can be exercised under Section 33 (1) only when the instrument is produced before the registering authorities in the performance of their functions, that is, only so long as the function is not performed or completed and not afterwards. The Registering Authority becomes functus officio after registration of document, having no power under Section 33 to impound the instrument. **AIR 1966 Madh Pra 20 (22) = 1965 MPLJ 606 (FB).**

(30) 'Comes before Court in the performance of its functions' — Suit for partition — Appointment of Commissioner to take inventory of documents in possession of party — Commissioner in course of inspection coming upon partition deed and producing it before Court — **Held** that as document had necessary connection with suit it was in the performance of the functions of Court that the document came before Court and hence could be impounded by the Court. (1966) 79 Mad LW 262 (263).

5. "Duly stamped".—(1) Duty chargeable on an instrument must be decided with reference to the Act in force at the date of the execution of the document. 1885 Pun Re No. 7 (Rev) p. 10 (10) ** (1882) 5 Mad 394 (396) (FB).

6. "Impound."— (1) Document already in possession of Court as part of record — Impounding takes place when word "impounded" is endorsed on document and signature of presiding officer is affixed to endorsement. **AIR 1942 Lah 257 (260) (SB).**

(2) When the document is filed and the question of proper stamp is raised, the Court is competent to impound it. AIR 1958 All 659 (660) (DB) ** AIR 1961 Andh Pra 424 (427).

(3) The only purpose of an unstamped letter of cover is to found a claim for delivery of policy and nothing else. Such letter of cover is not chargeable with duty as such under the Act but if it bears the stamp prescribed by the Act for a policy of insurance, then it will shed its inability and will become a competent document on which a claim for loss could be made. Such a document could not be subsequently impounded and stamped after its execution or penalty realised. AIR 1961 Cal 48 (51, 52) (DB).

(4) Document of gift, on which no amount of duty becomes payable, is not liable to be impounded under the section. AIR 1967 Pat 233 (234) = 1967 BLJR 169.

(5) Unstamped partition deed — Documents being inadmissible in evidence, if party insists to take it in evidence, Court shall impound it under Section 33 and forward it to Collector under Section 38 (2) — Then it is for Collector to give his decision under Section 40 about

34. Special provision as to unstamped receipts.—Where any receipt chargeable *[with a duty not exceeding ten naye paise] is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may, in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

[*] Substituted for the words "with a duty of one anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 5 (1-10-1958).

35. Instruments not duly stamped inadmissible in evidence, etc.—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall

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Section 33 — Note 6 (contd.)

proper duty and penalty, if any, to be charged. 1966 Raj LW 419 (424).

(6) Impounding of document produced in assessment proceedings — Court starting separate proceeding for impounding document — Main proceedings concluded — Court has no power to impound the document. AIR 1966 Orissa 214 (219) = 32 Cut LT 237.

(7) No impounding under Sec. 33 or imposition of a penalty under Section 40 on ground that the duty on transfer of property under the Delhi Municipal Corporation Act is either not paid or is insufficiently paid. AIR 1972 Delhi 131 (135) = ILR (1972) 1 Delhi 593.

7. Objection by Court or officer suo motu.—(1) Even if a party takes no objection to the insufficiency of stamp or withdraws such objection, the Court or officer before whom the document is produced is bound suo motu to raise such objection and to impound the document if not duly stamped. AIR 1925 Lah 552 (554).

8. Proviso (a).— (1) It is optional to a Magistrate or Judge of a Criminal Court to examine or impound the document if he thinks fit so to do. AIR 1916 Cal 310 (311) (DB).

9. High Court.— (1) Matter coming before High Court under this section — High Court not delegated its power of examining and impounding documents to any officer of Court — High Court can see if document is properly stamped and impound it if not duly stamped. AIR 1935 Cal 610 (611) = 63 Cal 173 (DB).

(2) Reference of case by Chief Controlling Revenue Authority on revision application of aggrieved party — Omission to refer question of jurisdiction of Collector to act under Sec. 33 — High Court itself can raise it. **AIR 1971 All 70 (76) = 1970 All LJ 1216 (FB).**

(3) Lower Court admitting document in evidence — High Court can declare nature of document and impound the same. AIR 1953 Hyd 14 (18) = ILR (1952) Hyd 495 (DB).

10. Revision against orders as to impounding.— (1) Order impounding a document should be considered as an interlocutory order and the High Court would interfere in revision if irreparable damage would otherwise be caused. AIR 1931 Rang 193 (194).

(2) Order impounding document and forwarding it to Collector for necessary action is open to revision — Fact that proceedings are being taken in Court of Collector pursuant to order made by Civil Court forwarding document to him cannot deprive High Court of jurisdiction to go into matter. AIR 1942 Lah 265 (266) ** AIR 1953 Mad 698 (698, 699) ** AIR 1949 Nag 214 (215) = ILR (1948) Nag 950 ** AIR 1947 Lah 319 (320).

(3) On plaintiff's getting an unstamped deed of settlement produced in Court, the lower Court held that the deed was a settlement and not an agreement and the penalty had to be paid on the basis of the value of the properties as set out in the plaint since it was not set out in the deed. It was held in revision that the High Court could not proceed to consider the merits of the question whether the lower Court's decision was wrong. The High Court had defined powers under the Stamp Act and any attempt to decide question relating to stamp duty otherwise than under these powers would lead to serious anomalies. The remedy of the party was to follow the procedure prescribed by the Act itself and not to invoke the general power of revision conferred on the High Court. AIR 1953 Trav-Co 559 (560, 561) = ILR (1953) Trav-Co 739 (DB).

(4) Order impounding document under Section 33 by Civil Court — Revision can be entertained. 1964 All LJ 783 (786).

(5) Where the lower Court decided the nature of the document and the amount of stamp duty payable and collected it along with the penalty, it has no jurisdiction to review that order and direct the document to be sent to Collector under Section 38 (2). (1967) 2 Andh WR 268 (271).

Section 34 — Note 1

(1) Reconstruction of lost record — Award filed under Section 14 Arbitration Act — When the original award is reconstructed from the true copy, Stamp duty and penalty can be collected. (1957) 2 Andh WR 280 (281 and 282).

(2) Original lost or in possession of opposite party and not produced — Original inadmissible for want of sufficient stamp — Secondary evidence cannot be admitted — Fact that original was registered makes no difference. ILR (1962) 1 All 671 (694).

SECTION 35 — SYNOPSIS

1. "Instrument chargeable with duty".
2. Applicability of section to documents executed before this Act.
3. "Is duly stamped."
4. Act applicable to determination of duty.
5. Due stamping — Onus of proof.
6. Stamp objection — Duty of Court.
7. Document not duly stamped — Effect — General.
8. "For any purpose".

be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Provided that—

(a) any such instrument not being an instrument chargeable °[with a duty not exceeding ten naye paise] only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

[(b) Where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;

[(c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

[(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

[(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf

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Section 35 — Synopsis (contd.)

9. Refreshing memory.
10. Cross-examination.
11. "Or acted upon."
12. Suit on original consideration.
13. Secondary evidence.
14. Admissibility of other evidence to prove transaction.
15. Unstamped decree for partition.
16. Registration.
17. Arbitration agreement.
18. Arbitration proceedings.
19. Proviso (a) — General.
20. Promissory note.
21. Instrument chargeable with duty of one anna or half anna.
22. "Subject to all just exceptions."
23. Proviso (b).
24. Proviso (c).
25. Proviso (d).
26. Delivery of signed and stamped blank paper.
27. Party succeeding on stamp objection — Right to costs.

1. "Instrument chargeable with duty."— (1) For purposes of Sec. 35, an instrument means an instrument chargeable with duty, irrespective of whether such instrument falls or does not fall within the definition thereof in Section 2 (14). An affidavit is chargeable with duty under Article 4 of Sch. I-B and hence every affidavit shall be an instrument for purpose of Section 35. AIR 1971 All 287 (289, 290) = 1970 All WR (HC) 348 (DB).

(2) Letter containing an admission does not require a stamp before it can be admitted as evidence. (1875) 23 Suth WR 325 (326) (DB).

(3) Section 36 appears to be exception to Section 35. AIR 1954 Raj 173 (176) = 1954 Raj LW 125 (DB).

[Overruled on another point in AIR 1962 Raj 68.]

(4) An ordinary letter addressed to the creditor and signed by the debtor in which the debtor acknowledges that a certain debt is payable to the creditor and that he wants the payment of this to be made in monthly instalments cannot be brought either under Art. 1 to Sch. 1 or under Section 35 nor can it be treated as a promissory note. AIR 1954 Assam 175 (Pr 8) = ILR (1953) 5 Assam 525 (DB).

(5) Where the statute declares a contract for sea insurance to be invalid unless expressed in a sea policy it cannot be rejuvenated by subsequently stamping it as a sea policy. (1969) 73 Cal WN 964 (979).

(6) Fire insurance policy — Letter of cover in respect of same kind of insurance — **Held** that letter of cover was an instrument chargeable to duty under the Act and so admissible in evidence on payment of the requisite duty and penalty under Section 35 of the Stamp Act as it was neither an instrument chargeable to duty not exceeding ten naye paise nor a bill of exchange or a promissory note. **AIR 1964 SC 1396 (1397 to 1400, 1403) = (1964) 5 SCR 1047.** (AIR 1961 Cal 48, **Reversed.**

2. Applicability of section to documents executed before this Act.— (1) Documents executed while prior Acts in force — Question as to whether they are duly stamped must be decided according to prior Acts. (1876) 2 Cal 58 (87. 88) (DB) ** **(1891) 14 Mad 255 (258) (FB).**

of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

[1879—S. 34, para. 1 and provisos 1 and 2; 1869—Ss. 18, 19, 20, 28 and Sch. II, Art. 11; 1862—Ss. 14, 15, 17, 22 and Sch. A, Art. 1; 1860—Ss. 12, 13.]

[°] Substituted for the words "with a duty of one anna or half an anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 6 (1-10-1958).

STATE AMENDMENTS

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the 1st day of April, 1959, in Section 35, in clause (a) of the proviso, for the words beginning with "any such instrument" and ending with "half an anna only", substitute the words, figures, letters and brackets "any such instrument not being an instrument chargeable with a duty of twenty paise or a mortgage of crop (Article 36 (a) of Schedule IA) chargeable under clause (aa) or (bb) of section 3 with a duty of forty paise."—Andh. Pra. Acts VI of 1922, Section 12 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIX of 1959, S. 8; X of 1967, S. 3 (3) (20-10-1967).

Madhya Pradesh:

In its application to the whole State of Madhya Pradesh on and from the 1st day of November, 1957, in clause (a) of the Proviso to section 35,, for the words "an instrument chargeable with a duty of one anna or half an anna only or", substitute the words "a receipt,".—C. P. and Berar Act V of 1948, Section 2 (30-1-1948) read with M. P. Act XVIII of 1957, Section 3 (2).

Punjab: Haryana: Chandigarh:

In its application to the whole State of Punjab, Haryana and Chandigarh in clause (a) of the Proviso to section 35, after the words "promissory note", insert the words "or

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Section 35 — Note 2 (contd.)

(2) Document found not duly stamped according to old enactments — Question of admissibility in evidence will fall to be decided under this section. 1884 All WN 328 (329) (DB) ** (1889) 13 Bom 493 (496) (DB) ** (1874) 13 Beng LR (App) 33 (34) (DB) ** (1882) 5 Mad 394 (396) (FB).

[But see (1881) 2 Mad 251 (253) (DB).]

3. "Is duly stamped."— (1) The wording in Section 35 shows that unless a document is properly stamped, it cannot be admitted in evidence. The words 'unless such instrument is duly stamped' in Section 35 are clear to convey that meaning. (1958) 24 Cut L Tim 144 (145). (Hence, a sale deed, which purports to have been executed on a stamp paper for a consideration of Rs. 37 though the real consideration is Rs. 315, is not duly stamped and consequently not admissible in evidence for any purpose.)

(2) An instrument need not be valid in law or meet the requirements of law as a valid document before it is chargeable to stamp duty under the Act — Document validly executed under the Act — No other formalities under any other law are necessary to make it chargeable to stamp duty. AIR **1968 Andh Pra 213 (215 to 218) = (1967) 2 Andh LT 395 (FB).**

(3) In determining the nature of an instrument for stamp duty the Court must only consider the instrument as it is and should not look at extraneous circumstances. (1903) **27 Bom 279 (280) (FB)** ** AIR 1937 Rang 392 (394) = 1937 Rang LR 196 (DB).

(4) In order to hold that agreement to let may be stamped as lease, it is necessary that such agreement should create actual demise. AIR 1969 Raj 22 (23) = 1968 Raj LW 332.

(5) Promissory note duly stamped at time of its execution — Document is admissible in evidence although at time when it is tendered in evidence, it is no longer duly stamped by reason of loss or removal or obliteration of stamp. AIR 1934 All 388 (389) = 56 All 781 ** (1842) 3 QB 687 (688, 689) = 12 LJ QB 36.

(6) Objection that an instrument is not duly stamped is to be given effect to although it is not sustainable on grounds on which it is raised. (1907) 9 Bom LR 1034 (1038).

(7) Acknowledgment of debt stamped with one anna postage stamp instead of receipt stamp — It must be treated as not stamped at all. **(1901) 23 All 213 (215, 216) (FB).**

(8) Demand promissory note stamped with a quarter anna postage stamp is not duly stamped. AIR 1917 Bom 223 (223) (DB).

(9) Instrument expressed as a promissory note — Not properly stamped as required by Article 49 — Not admissible in evidence. AIR 1967 Guj 7 (9 to 11) = (1965) 6 Guj LR 893.

(10) Promissory note bearing stamp of proper description but of value higher than what is required — It is to be treated as duly stamped. ILR (1965) 15 Raj 231 (232, 233).

(11) Promissory note engrossed on non-adhesive stamp of more than required value but not duly stamped under Stamp Act — Collector has no power to certify instrument as duly stamped on payment of penalty — His certificate is not binding on civil Court — Promissory note not admissible in evidence for any purpose under Section 35. AIR 1963 Andh Pra 457 (459) = (1963) 2 Andh LT 93. (AIR 1957

acknowledgment or delivery order".—East Punj. Act XXVII of 1949, Section 5 (with effect from 1-4-1950) read with Punj. Act V of 1957, Section 4; Act XXXI of 1966, Section 89.

Tamil Nadu:

In its application to the whole State of Tamil Nadu, in Cl. (a) of the Proviso to section 35, for the words beginning with the words "any such instrument" and ending with the words "half an anna only", substitute the words, figures, letter and brackets "any such instrument not being an instrument chargeable with a duty of twenty paise, one anna or half an anna or a mortgage of crop (Article 41 (a) of Schedule I) chargeable under section 3 with a duty of forty paise."—Mad. Acts VI of 1922, Section 12 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIV of 1958, Section 12 (1-10-1958); VIII of 1962, Section 4 (3) (10-9-1962).

Uttar Pradesh:

In its application to the whole State of Uttar Pradesh, in clause (a) of the Proviso to Section 35, for the words "an instrument chargeable with a duty of one anna or half an anna only", substitute the words "a receipt".—U. P. Act XVIII of 1938, Section 3-A (with effect from 13-2-1939).

Section 35 — Note 3 (contd.)

Madh Bha 181 dissented from.) ** AIR 1965 Raj 114 (114, 115) = 1964 Raj LW 31. (Certificate under Section 37 cannot cure defect.)

(12) An endorsement of due stamping on a hundi made by Collector under Sec. 32 (3) is without authority of law in view of proviso (c) to Section 32 (3) and as such the hundi cannot be deemed to be duly stamped so as to be admissible in evidence. **AIR 1971 All 280 (283, 285) = 1971 All LJ 202 (FB).** ((1881) ILR 3 All 115 **Overruled.**)

(13) Instrument written on one impressed sheet but two impressed sheets used to make up amount of duty chargeable — Instrument is not duly stamped. AIR 1914 Mad 358 (359) [But see (1870) 13 Suth WR 41 (43) (DB).]

4. Act applicable to determination of duty.— (1) Penalty leviable is to be determined according to the law in force at the time when instrument is tendered in evidence. 1867 Pun Re No 59. p. 119 (119) (DB). (Question of proper stamp to be determined with reference to law in force at time of execution) ** **(1891) 14 Mad 255 (258) (FB).** (Do.) ** **(1882) 5 Mad 394 (396) (FB)** (Do.) ** AIR 1921 Pat 218 (223) (DB) (Do.)

(2) The chargeability of a document to duty will have to be seen according to stamp law in force when document was executed but what has to be done with such a document at the time of evidence will have to be seen according to the Indian Stamp Act which came into force in Rajasthan from 1-4-1951 — If the party insists that the unstamped documents should be taken in evidence, then Court should impound them and forward them to Collector. ILR (1966) 16 Raj 375 (384) (DB).

(3) Proper stamp is to be determined according to law in force at the time of execution and not when document is tendered in evidence. **AIR 1962 Raj 68 (70) = 1961 Raj LW 653 (FB).**

(4) Section 36, has no application to a case under Section 34 (3) of the Companies Act (1913) as the proceedings before Company are not of a judicial character under Sec. 36 of the Stamp Act. AIR 1954 Nag 293 (Pr 9) = ILR (1954) Nag 392 (DB).

(5) Insufficiently stamped promissory notes governed by Hyderabad Stamp Act — Court in Mysore admitting in evidence by requiring payment of duty and penalty — Order not valid. (1962) 40 Mys LJ 876 (878, 879).

(6) Provisions of Section 35, Stamp Act (1899) as modified by Section 5, Indian Stamp (East Punjab Amendment) Act (27 of 1949) cannot be extended to Delhi. AIR 1965 Punj 279 (282 to 284) = 67 Pun LR 1037 (DB).

5. Due stamping — Onus of proof.— (1) Prima facie, the onus of showing that a document is not duly stamped is on the party impeaching the document. (1884) 9 PD 215 (217) = 53 LJP 88 ** (1844) 152 ER 1253 (1254) = 13 LJ Ex 113.

(2) Where a document properly bears cancelled adhesive stamps of proper amount it will be presumed that they were affixed and cancelled at the proper time. AIR 1937 Rang 392 (394) = 1937 Rang LR 196 (DB).

(3) Document requiring impressed label shown to have been stamped with such label — It will be presumed until contrary is shown that label was attached and impressed by proper officer according to rules. AIR 1941 Lah 345 (346).

(4) Document proved to have been lost or in possession of opposite party who fails to produce it after notice and secondary evidence is given of contents of document — It will be presumed that original was duly stamped. (1872) 5 HL 624 (631) = 42 LJ Ch 173 ** (1815) 171 ER 394 (394) = 18 RR 744.

(5) Original shown not to have been duly stamped — Secondary evidence cannot be admitted. (1913) 11 All LJ 506 (510) (DB) ** (1882) 7 Cal 256 (259) (DB).

6. Stamp objection — Duty of Court.— (1) Court cannot give effect to an agreement between the parties to waive the objection as to stamp. (1889) 5 TLR 382 (383) ** (1834) 40 ER 134 (136) = 3 LJ (NS) Ch 205.

(2) Admissibility or inadmissibility of document in evidence is matter of procedure. AIR 1969 Raj 313 (314) = 1969 Raj LW 246.

(3) A penal provision like Section 35, Stamp Act cannot be made applicable by inferences. AIR 1969 Andh Pra 417 (422) (DB).

(4) If an objection is taken to the admissibility of a document on the ground that it is not stamped and registered, the Court must first decide both the questions. If it finds that the document requires registration and therefore is inadmissible, being unregistered, the document itself will have to be rejected. The Court cannot first ask the document to be

Section 35 — Note 6 (contd.)
stamped and thereafter decide whether it would require registration. (1955) 1 Mad LJ 457 (457, 458).

(5) On the question of admissibility of document, Court postponing its decision to a subsequent stage — Document cannot be regarded as having been admitted in evidence so as to attract Section 36. (1970) 2 Mys LJ 48 (49. 50).

(6) Document unstamped — Party must be alert and see that it is not admitted — It is the duty of court to determine the question of admissibility judicially, as soon as it is tendered and before it is marked as exhibit. **AIR 1961 SC 1655 (Pr 4).** (AIR 1957 Raj 47 **Reversed.)** ** 1968 BLJR 589 (591)
[See also (1968) 34 Cut LT 805 (810) ** AIR 1957 Andh Pra 1022 (1022 to 1024) = 1956 Andhra WR 490. (Questions as to admissibility of evidence should be decided as they arise and should not be reserved until judgment in the case is given.)]

(7) Document admitted — It is not open to trial court or court of Appeal or Revision to go behind the order. **AIR 1961 SC 1655 (Pr 4)** (AIR 1957 Raj 47 **Reversed.)** ** (1973) 1 Cut WR 226 (228) ** AIR 1972 Bom 238 (242) = 74 Bom LR 131 (DB) ** (1965) 2 Com LJ 215 (218) (All) ** (1965) 2 Law Rep 231 (233) ** AIR 1963 All 376 (376) = 1962 All LJ 702 ** ** (1963) 2 Andh WR 176 (178) (DB) ** AIR 1963 Pat 131 (138) ** AIR 1962 Orissa 35 (36, 37) = 27 Cut LT 177. (AIR 1919 Nag 141 **Dissented from)** ** AIR 1955 Madh Bha 81 (82) = MBLJ 1955 HCR 209 (DB). (Minority view in AIR 1952 All 996 **Dissented from.)**
[See also AIR 1972 Orissa 182 (185) = 1971 (2) Cut WR 191 = 37 Cut LT 839. (Admissibility of document in evidence not specifically challenged in trial court cannot be called in question in second appeal.) ** (1968) 1 Andh WR 221 (233, 234) (DB).]

(8) A revision application should be entertained against an order of the subordinate Court holding that a document is inadmissible in evidence under Section 35 of the Stamp Act, if the contention of the applicant is that either the document does not require any stamp or it is sufficiently stamped. If, however, the document is insufficiently stamped or unstamped no revision would lie against an order offering to admit the document in evidence on payment of a certain amount of duty and penalty, if the contention of the applicant is that the document has been wrongly classified and the duty and penalty demanded are excessive. AIR 1969 Raj 313 (314) = 1969 Raj LW 248.

(9) Document tendered in evidence — Order of Court in regard to stamp duty and penalty — Remedy of party aggrieved is just to exhaust remedies under Sections 40. 56 and 57 before filing revision. ILR (1962) Cut 121 (123, 124) (Orissa) (DB).

(10) Order holding promissory note to be duly stamped and as such admissible in evidence — Should be challenged in revision immediately — If not so challenged it cannot be reopened at later stage. AIR 1972 Mys 344 (345) = (1971) 1 Mys LJ 487.

(11) Document produced in appeal — High Court assessing penalty — Judgment relating to assessment of penalty not warranted by provisions of Stamp Act — It did not constitute a bar to hearing matter by Full Bench in reference under Section 55 after assessment of penalty by Collector — It is Collector who alone has power to assess penalty. **AIR 1955 Hyd 17 (19, 20) = ILR (1954) Hyd 562 (FB).**

(12) Unstamped document marked as exhibit in the case and used by parties in examination and cross-examination of witnesses — Order admitting document in evidence is not liable to be reviewed or reversed. **AIR 1961 SC 1655 (Pr 4).** (AIR 1957 Raj 47, **Reversed.)**

(13) A document which ought not to be admitted in view of Section 35 as the proviso to that section is not attracted to the case of a promissory note, is admitted in evidence within meaning of Section 36 by charging impounding fee — When such document is admitted in evidence either by overlooking Section 35 or wrongly construing proviso to Section 35, still Section 36 comes into play — As such, it is wrong to exclude such promissory note from evidence or to refuse presumption under Section 118 of Negotiable Instruments Act. AIR 1967 Pat 276 (277).

(14) Courts decided the nature of document and collected stamp duty on it along with penalty — After that power of Court to direct the document to be sent to the Collector to be dealt with under S. 40 is exhausted. (1967) 2 Andh WR 268 (270, 271).

7. Document not duly stamped — Effect — General.— (1) Instrument not duly stamped is not invalid. (1882) 4 All 462 (469, 477, 478) (DB) ** AIR 1956 Mad 454 (457) = ILR (1956) Mad 1074 (DB). (Incapable of being made use of as evidence, until it is stamped properly.) ** 1873 Bom PJ 112 (DB) ** AIR 1942 Cal 386 (389) (DB) ** AIR 1926 Cal 877 (878) = 53 Cal 515 (DB).

(2) Section 35 holds out the mandate that instruments not duly stamped would be inadmissible in evidence. The Stamp Act provides a machinery for subsequently paying proper duty together with penalty and thus making document admissible but so far as hundis are concerned, there is no such enabling provision — If hundis are found not to have been properly drawn up and to come within Section 13 of the Act, necessarily Section 15 would be applicable and they are not admissible in evidence on account of mandate in Section 35. (1972) 1 Cut WR 41 (45, 49).

(2A) An instrument becomes effective on payment of requisite stamp duty and penalty and it becomes admissible in evidence and can be acted upon if it is found to be otherwise lawful. 1972 Kash LJ 460 (462).

(3) Section does not place any embargo on the power of Court to receive evidence of execution of an unstamped document though it is one which is required to be stamped. The embargo is on enforcement of rights or title or acting upon an instrument which is unstamped. AIR 1971 All 434 (436 to 438) = 1971 All WR (HC) 410.

(3A) If the party voluntarily makes good quantum of deficiency and penalty under Section 35, Court has no option but to admit instrument into evidence and thereafter to send to Collector authenticated copy of instrument together with a certificate together with amount levied in respect thereof. **1966 Cur LJ 528 (529) (Punj).**

Section 35 — Note 7 (contd.)

(4) Instrument not duly stamped is only subject to the disabilities mentioned in this section. AIR 1926 All 359 (359) = 48 All 332 ** AIR 1958 Bom 421 (422) (DB) ** AIR 1956 Mad 454 (457) = ILR (1956) Mad 1074 (DB) ** (1911) 35 Bom 29 (33) (DB).

(5) Decree in terms of compromise in the suit — Civil Court made no direction as required under Section 29 (g) — Final decree therefore incorporating terms of compromise, even if it be treated as instrument of partition is of no use to the parties thereto or any other person under Section 35, such an instrument if it is chargeable with duty. will not be admitted in evidence or acted upon unless it is duly stamped. 1970 All LJ 413 (416).

(6) Document relating to mortgage of immovable properties and receipt for payment — Stamp duty paid sufficient for receipt for payment but not on the aggregate value of the properties — Document does not become inadmissible in respect of the receipt for payment of money. (1964) 5 Guj LR 405 (406).

(7) Document not sufficiently stamped — Instrument can be admitted or rejected only as whole. **(1872) 14 Moo Ind App 24 (38) (PC).**

(8) Two instruments. one a settlement and the other a will, are contained in one document — Provisions which constitute a will and form a separate instrument do not require any stamp and will be admissible to prove bequest therein. (1970) 2 Andh WR 181 (183, 185) = (1971) 1 Andh LT 24.

(9) Insufficiently stamped promissory note cannot be admitted in evidence even if duty and penalty are paid. (1968) 34 Cut LT 805 (810).

(10) Insufficiently stamped promissory note is inadmissible for any purpose — Document marked as exhibit but subsequently found to be insufficiently stamped — It can be impounded and penalty levied and recovered — Section 36 contains rule of procedure and should be read within Section 61. AIR 1964 Assam 138 (139 to 141) = ILR (1964) 16 Assam 54. (AIR 1938 Nag 294, AIR 1934 Mad 700, **Dissented from.**)

(11) Bar to the admissibility, etc., of an instrument under Section 35 does not depend on an objection by a party. AIR 1925 Lah 552 (554). (Even where objection is withdrawn it must be dealt with by Court or public officer.)

(12) Unstamped instrument may be a "valuable security" within Section 477, Penal Code. (1889) 12 Mad 148 (150) (DB).

(13) Mortgages evidenced by unstamped documents suppressed by defendant — Still prohibition in this section will come into play. AIR 1946 Mad 457 (458).

(14) Final decree for partition not drawn on proper stamp is not admissible in evidence. AIR 1946 Mad 534 (535).

(15) Unstamped and unregistered instrument of partition — Later on duly stamped — Can be used for proving division in status. AIR 1962 Andh Pra 132 (134). (AIR 1917 Mad **77 (FB), Diss. from.**)

(16) Value of property not put in document of gift — No amount of duty becomes payable according to schedule — No question of calling upon the defendant to pay duty and penalty for admitting it into evidence arises. AIR 1967 Pat 233 (234) = 1967 BLJR 169 (DB).

(17) If a document is a conveyance but is insufficiently stamped, the defect can be cured by paying deficit stamp but if it is a relinquishment deed and is stamped as such, it cannot be converted into a conveyance by paying the deficit. AIR 1962 Andh Pra 94 (99) = (1961) 1 Andh WR 105 (DB).

8. "For any purpose".— (1) The words "for any purpose" include even collateral purposes. The said words must be given their natural meaning. **AIR 1946 PC 51 (53) = 73 Ind App 28 = ILR (1946) Lah 63 = ILR (1946) Kar (PC) 31** ** AIR 1946 Pat 118 (118). ** (1967) 2 An WR 444 (451, 452) ** AIR 1966 Orissa 18 (19 to 21) = 31 Cut LT 917.

[See also AIR 1972 Andh Pra 373 (375) = (1972) 1 Andh LT 232. (Unregistered sale deed and adoption deed cannot be admitted in evidence even for comparison of signatures without payment of stamp duty and penalty as required by proviso (a) to section.) ** AIR 1968 All 164 (166). (Promissory note not duly stamped — Pronote cannot be used in evidence for any purpose with result that writing therein cannot be utilised as an acknowledgment of claim.) ** AIR 1973 Andh Pra 170 (173). (Promissory note cannot be used to save limitation.) ** ILR (1963) Andh Pra 1085 (1102) (DB). (An unstamped partition deed could not be used to corroborate oral evidence for purpose of determining even factum of partition as distinct from its terms.) ** (1958) 24 Cut L Tim 144 (145) ** AIR 1953 All 350 (Pr 8). (But if the document is either properly stamped or is not required to be stamped but is required to be registered, Section 49. Registration Act, permits it to be used as evidence of collateral transaction not required to be effected by a registered instrument.) ** 1955 Mad WN 487 (488) ** AIR 1951 Pat 277 (Pr 12) = 29 Pat 628 (DB)].

[But see **AIR 1946 All 126 (127) (FB).**]

(2) A finding that a mortgage deed could not be admitted in evidence because it was unstamped is not a bar to the determination of the question whether the deed is admissible for collateral purposes. AIR 1956 Madh B 117 (118).

(3) An instrument in which time for payment is specified is a pronote payable otherwise than on demand and consequently it would be liable to stamp duty under Article 49 (b) and in view of proviso to Section 35, the document cannot be validated by payment of penalty and it would be inadmissible in evidence for any purpose. AIR 1971 Mad 290 (292, 293) = (1971) 1 Mad LJ 214 (DB).

(4) No part of the document which is chargeable with duty can be received in evidence even for a collateral purpose. AIR 1972 Andh Pra 373 (375) = (1972) 1 Andh LT 232 ** AIR 1973 Andh Pra 170 (173).

(5) "Instrument" must be taken as a whole, AIR 1938 All 619 (620) ** AIR 1952 Mad 515 (Pr 21b) = ILR (1952) Mad 218 (DB). (Proxy containing specific power and general power — Both separable — Stamp duty sufficient for one — Proxy cannot be allowed only in respect of that power.) ** AIR 1937 All 101 (104) (DB) ** AIR 1938 Mad 75 (77) = ILR (1938) Mad 210 (DB).

Section 35 — Note 8 (contd.)

[But see AIR 1929 All 980 (981) = 52 All 169 (DB) ** **(1870) 4 Beng LR 18 (23, 24) (FB)** ** AIR 1935 Lah 364 (368) = 16 Lah 667 (DB) ** AIR 1933 Mad 251 (252) ** AIR 1930 Mad 485 (486) ** AIR 1936 Nag 225 (226) (DB).]

(6) Endorsement of payment on the back of a promissory note is admissible in evidence though the promissory note is not duly stamped. AIR 1939 Mad 34 (36). (AIR 1917 Mad 460, Rel. on.) ** AIR 1937 Rang 408 (412) = 1937 Rang LR 127.

[See also AIR 1960 Mad 237 (238) = ILR (1960) Mad 358.]

(7) Where a pronote is written on one side of a sheet of paper and the 'receipt' on the other and a printed line in black stands drawn in between, so as to demarcate the two portions clearly, 'receipt' is admissible in evidence though the pronote might be altogether inadmissible. AIR 1952 Ajmer 14 (2) (Pr 1).

(8) Promissory note not enforceable as being in contravention of Section 26 of Paper Currency Act — Suit brought on original consideration — Promissory note can be admitted in evidence as acknowledgment of debt. AIR 1922 Mad 181 (183) = 45 Mad 778 (DB).

(9) Suit for redemption of usufructuary mortgages created by unstamped documents — Defendant conceding that he was in possession as usufructuary mortgagee by prescription — Defendant held could not deny plaintiff's right to redeem usufructuary mortgage right acquired by prescription — Redemption held could be allowed though documents were unstamped. AIR 1946 Mad 457 (458).

[See also AIR 1968 Mad 294 (296, 297) = (1968) 1 Mad LJ 249 (DB). (Even if contesting party is in wrongful possession of unstamped document, since Section 35 operates as clear bar. relief cannot be granted to other party on ground that it was not able to validate document by payment of penalty.) (AIR 1956 Mad 693. **Overruled;** AIR 1946 Mad 457 Approved.) ** AIR 1953 Punj 216 (217) = ILR (1956) Punj 674 (DB).]

(10) Document embodying mortgage transaction inadmissible not being engrossed on stamped paper — It is admissible to ascertain reason why the person was in possession whether it was because he was a tenant or because he was a mortgagee with possession. (1962) 40 Mys LJ 948 (950).

9. Refreshing memory.— (1) Document though inadmissible in evidence may be used to refresh the memory of a witness while under examination. AIR 1935 Pat 375 (376) = 14 Pat 233 (DB) ** (1896) 1 QB 325 (326) = 65 LJQB 252.

10. Cross-examination.— (1) A party cannot be cross-examined as to the contents of a document not admissible for want of a stamp. (1858) 175 ER 723 (724, 725) = 115 RR 906.

11. "Or acted upon".— (1) Under Section 35 a document which is not duly stamped is not only inadmissible in evidence but also incapable of being "acted upon". AIR 1957 Raj 47 (50, 51) = ILR (1957) 7 Raj 323 (DB). **(Reversed** on another point by **AIR 1961 SC 1655.)**

(2) Provisions of Section 36 do not create any bar against an instrument not duly stamped being acted upon. **AIR 1969 SC 1238 (1240) = (1969) 2 SCJ 791.** (AIR 1952 All 996, **Overruled.)**

(3) Document not duly stamped — Execution or contents of document admitted by defendant — Courts cannot take note of document and grant relief on its basis. (1894) 18 Bom 369 (371) (DB) ** (1874) 21 Suth WR 1 (2) (DB) ** AIR 1939 Lah 31 (34) (DB) ** AIR 1934 Lah 606 (607) (DB) ** (1910) 7 Ind Cas 320 (320) (Mad) ** AIR 1935 Rang 282 (283) (DB) ** AIR 1914 Low Bur 62 (63) = 7 Low Bur Rul 101 ** AIR 1920 Sind 66 (67) = 13 Sind LR 169 (DB) ** AIR 1968 Mad 294 (296, 297) = (1968) 1 MLJ 249 (DB). (AIR 1932 Mad 693 and AIR 1947 Mad 422, **Overruled;** AIR 1933 Mad 117. Approved.)

[But see 1892 Bom PJ 299 (DB) ** Madh BLJ 1954 HCR 726 (727) ** AIR 1938 Lah 511 (512) ** (1968) 3 Mad HCR 158 (160) (DB).

(4) Suit based on unstamped instrument compromised — Decree passed on compromise — Instrument cannot be acted upon. **AIR 1934 Lah 637 (637) (SB).**

(5) Suit for setting aside an instrument cannot be dismissed merely on the ground of the instrument not being duly stamped and the plaintiff not paying the deficit duty and penalty. AIR 1918 Upp Bur 31 (32) = 2 Upr Bur Rul 146.

(6) Suit based on original consideration — Admission by defendant of plaintiff's claim may constitute basis of decree against defendant. (1900) 24 Bom 360 (362, 363) (DB) ** AIR 1920 Sind 66 (67, 70) = 13 Sind LR 169 (DB).

(7) Admission by defendant of the execution of the document will be unavailable to the plaintiff whether the suit is on the document itself or on the original consideration. 1906 Pun Re No. 66, p. 239 (242) (DB).

(8) Proxy not properly stamped or stamp on it not cancelled —Vote given by person holding proxy cannot be held as valid vote. AIR 1928 Bom 80 (89).

12. Suit on original consideration.— (1) Promissory note or bill of exchange not duly stamped — Note or bill cannot be sued on. (1882) 5 Mad 166 (168) (DB).

(2) Suit can be laid on the debt itself though the promissory note in respect thereof is not stamped. if it has been taken merely as a collateral security when the document does not contain all the terms of the contract between parties, Section 91 of the Evidence Act has no application. AIR 1972 AP 282 (283) = (1972) 1 APLJ 316.

(3) Pre-existing debt or liability — Bill or note passed in respect of it — Plaintiff can fall back on original consideration if document is not admissible in evidence as not being duly stamped. (1904) 26 All 178 (182) ** **AIR 1943 All 220 (224) = ILR (1943) All 610 (FB)** ** AIR 1960 Mad 237 (238) = ILR (1960) Mad 358 * AIR 1960 Raj 10 (12) = ILR (1958) 8 Raj (1085) (DB) ** AIR 1956 Hyd 32 (32) = ILR (1955) Hyd 725 ** AIR 1955 Sau 74 (77) (DB) ** AIR 1952 Hyd 137 (Pr 2) = ILR (1952) Hyd 171. (Suit on unstamped promissory note —

Section 35 — Note 12 (contd.)

Any separate transaction giving rise to a distinct cause of action contemporaneous with or antecedent to the promissory note can be relied on by the plaintiff and made the basis of suit.) ** AIR 1952 Madh B 45 (Pr 13) ** (1882) 4 All 125 (137) (DB) ** AIR 1934 Cal 554 (555) = 61 Cal 433 (DB) ** AIR 1919 Cal 347 (348) (DB) ** AIR 1926 Lah 328 (329) = 7 Lah 113 (DB) ** AIR 1926 Lah 356 (357) = 7 Lah 206 (DB) ** **AIR 1938 Mad 785 (786) = ILR (1938) Mad 933 (FB) ** AIR 1936 Mad 179 (185) = 59 Mad 268 (FB)** AIR 1936 Nag 225 (227) (DB) ** **AIR 1933 Pat 575 (576) = 12 Pat 862 (FB)** ** AIR 1923 Rang 254 (256) (DB) ** AIR 1971 Mad 290 (293) = (1971) 1 Mad LJ 214 (DB) ** 1963 Mys LJ (Supp) 112.

(4) Pre-existing debt or liability — If bill or note has been accepted as accord and satisfaction of debts plaintiff cannot fall back upon original cause of action. AIR 1918 Lah 78 (79) ** AIR 1961 Raj 235 (Pr 12) = ILR (1961) 11 Raj 614 ** 1891 Pun Re No. 82, p. 401 (407) (DB) ** (1911) 9 Ind Cas 896 (897) (Sind).

(5) In the absence of evidence to the contrary, the presumption is that payment by means of a bill, note or cheque is a conditional payment only. AIR 1926 Lah 328 (329) = 7 Lah 113 (DB) ** **AIR 1943 All 220 (224) = ILR (1943) All 610 (FB)** ** AIR 1957 Assam 133 (135) (DB) ** AIR 1957 Tripura 28 (32) ** AIR 1931 Nag 113 (115) = 27 Nag LR 56 ** AIR 1933 All 109 (109) ** AIR 1966 Orissa 18 (19 to 21) = 31 Cut LT 917.

(6) Where the giving of bill or note is contemporaneous with loan and forms part of same transaction, the following are the views on the question whether plaintiff can sue for debt apart from bill or note:—

(a) Plaintiff cannot fall back upon the original cause of action. **AIR 1931 All 183 (189) = 53 All 114 (FB).** (34 All 158 and 28 All 298, **Overruled.**) ** AIR 1960 Raj 10 (12) = ILR (1958) 8 Raj 1085 (DB) ** AIR 1946 All 150 (152, 153) = ILR (1946) All 82 (DB) ** AIR 1935 Cal 658 (659) ** AIR 1927 Lah 89 (90) (DB) ** AIR 1921 Lah 217 (219) (DB). (16 Ind Cas 33 (All), **Dissented from.**) ** AIR 1935 Mad 23 (24) = 58 Mad 261 (DB) ** AIR 1932 Mad 687 (688) (DB) ** AIR 1971 Mys 144 (145) = (1970) 2 Mys LJ 547 ** AIR 1966 Orissa 18 (19 to 21) = 31 Cut LT 917.

(b) Loan itself gives rise to a distinct cause of action on which the plaintiff can sue even though the bill or note is inadmissible in evidence for want of stamp. **AIR 1946 All 126 (127) (FB)** ** AIR 1961 Raj 235 (Pr 12) = ILR (1961) 11 Raj 614 (DB). (Agreement of loan covering rate of interest also — Plaintiff can prove it and upon proof is entitled to it — Claim for interest must fail if agreement does not contain any such term. Observations in AIR 1960 Raj 10, **Held** Obiter; AIR 1933 Pat 584 (1), **Dissented from.**) ** **AIR 1957 Tripura 28 (32). (AIR 1943 All 220 (FB) and AIR 1946 All 126 (FB), Foll.)** ** AIR 1954 Madh B 117 (Prs 3, 4, 5) = ILR (1954) Madh B 20 ** AIR 1933 Bom 476 (477) = 57 Bom 802 (DB) ** AIR 1926 Bom 357 (358) (DB) ** AIR 1936 Cal 170 (171) ** AIR 1918 Cal 688 (693) = 45 Cal 538 (DB) ** AIR 1935 Mad 206 (208, 209) **(Overruled by AIR 1938 Mad 785 (FB).)** ** AIR 1926 Mad 1148 (1150). **(Overruled by AIR 1938 Mad 785 (FB).)** ** AIR 1935 Nag 54 (55) = 31 Nag LR 162 ** AIR 1933 Nag 57 (61) = 29 Nag LR 131 (DB) ** **AIR 1932 Oudh 235 (240) = 7 Luck 666 (FB)** ** AIR 1931 Pat 293 (294) = 11 Pat 135 (DB) ** AIR 1928 Pat 426 (427, 428) = 7 Pat 845 (DB) ** (1923) 71 Ind Cas 968 (970) (Pesh) ** AIR 1931 Rang 139 (142) = 9 Rang 56 ** AIR 1928 Rang 242 (243) ** **AIR 1920 Low Bur 1 (7) = 10 Low Bur Rul 54 (FB)** ** (1963) Ker LT 281 (282).

(c) Plaintiff can sue on the debt apart from the bill or note. **(1887) 9 All 351 (355) (FB) ** AIR 1946 All 126 (127) (FB) ** AIR 1943 All 220 (227, 228) = ILR (1943) All 610 (FB)** ** AIR 1957 Hyd 35 (37) = ILR (1956) Hyd 749 ** AIR 1955 Sau 74 (77) (DB) ** AIR 1953 All 535 (Pr 23) (DB)** AIR 1927 Bom 437 (437) ** AIR 1935 Cal 102 (105) (DB) ** AIR 1927 Cal 538 (540) (DB) ** (1913) Pun LR No. 174. p. 578 (581) ** AIR 1938 Mad 785 (786) = ILR (1938) Mad 933 (FB) ** AIR 1936 Mad 179 (186) = 59 Mad 268 (FB)** AIR 1936 Nag 225 (227) (DB) ** AIR 1921 Pat 318 (320) ** AIR 1921 Sind 80 (81) = 15 Sind LR 135 (DB).

(d) Note or bill itself contract between parties — Plaintiff can only sue on note or bill and if it is not duly stamped, he cannot fall back on original consideration. AIR 1930 Bom 66 (68) ** (1882) 8 Cal 721 (724) (DB) ** 1888 Pun Re No. 61, p. 151 (153) (DB) ** **AIR 1938 Mad 785 (788) = ILR (1938) Mad 933 (FB) ** AIR 1936 Mad 179 (185) = 59 Mad 268 (FB)** AIR 1936 Nag 225 (227) (DB) ** AIR 1966 J and K 127 (131 to 133) = 1966 Kash LJ 149 (DB).

(7) Consideration passed at same time as execution of hundis on which suit was based — **Held** that suit was not maintainable against defendant as his name was not disclosed on face of instrument but "It would have been open to the plaintiffs had they thought fit, to have framed their case in an alternative form and to have sued both on the hundis and alternatively, upon the consideration." **AIR 1918 PC 146 (146) = 46 Ind App 33 = 46 Cal 663.**

(8) Unless it can be shown that a hundi does not contain all the terms of the contract between the parties, the suit must fail where the instrument is inadmissible for want of proper stamping, and the plaintiff cannot be allowed to fall back on the loan which forms the consideration for the hundi in suit. AIR 1954 Punj 301 (304) = 56 Punj LR 502 (DB). (AIR 1936 Cal 70, **not followed.**)

(9) When money or other valuable consideration passes and a negotiable instrument is given in exchange for that consideration, a cause of action arises on the consideration apart from the engagement evidenced by instrument. **AIR 1938 Mad 785 (795) (FB).**

(10) Action analogous to that for money had and received can be maintained without resort to any theory of implied contract. **AIR 1918 PC 241 (245).**

(11) In a suit on the original consideration, the plaintiff will not be entitled to interest at the rate mentioned in the promissory note. AIR 1936 Nag 225 (228) (DB) ** AIR 1933 Oudh 259 (260) (DB) ** AIR 1933 Pat 584 (584) ** AIR 1928 Rang 242 (243) = 6 Rang 415 ** AIR 1928 Pat 426 (428) = 7 Pat 845 (DB).

Section 35 — Note 12 (contd.)

(12) No decree on the basis of a pronote which was not properly stamped can be passed and no decree on the basis of original cause of action can be given if there was no pleading to that effect. 1963 Ker LT 241 (245).

(13) Suit originally based on promissory note or bill of exchange — Court can allow plaint to be amended so as to include original cause of action. AIR 1938 Bom 476 (477) = 57 Bom 802 (DB) ** AIR 1952 Hyd 137 (Pr 2) = ILR (1952) Hyd 471 ** AIR 1930 Bom 66 (68) ** AIR 1934 Cal 554 (555) = 61 Cal 433 ** (1875) 24 Suth WR 198 (200) (DB) ** AIR 1966 Orissa 18 (19 to 21).

(14) Money advanced by plaintiff but hundies executed in favour of his benamidar — Suit for recovery based on hundis — Hundies found insufficiently stamped — Admission by defendant that money was originally advanced to him by plaintiff — Court may allow plaintiff to amend plaint to base his claim on money advanced by him, though at time of amendment, claim on original advance is barred by limitation. AIR 1961 Ker 169 (Prs 7, 8, 9).

(15) Hundi for sum exceeding Rs. 30.000 — Even if stamp duty paid on it is correct, it is covered by Rule 18 of Stamp Rules — It is inadmissible in evidence. AIR 1954 Punj 301 = 56 Pun LR 502 (DB).

(16) Promissory note or hundi executed in renewal of prior note or hundi and inadmissible in evidence as not being duly stamped — Plaintiff can sue on prior note or hundi unless new document is accepted as accord and satisfaction of debt due on prior document. AIR 1931 All 560 (561) (DB) ** AIR 1914 All 25 (26) = 36 All 259 (DB) ** AIR 1928 Lah 424 (425) ** AIR 1923 Lah 396 (397) (DB).

[See also AIR 1973 Andh Pra 170 (173). (Improperly stamped subsequent promissory note — Cannot be admitted in evidence to save limitation on previous promissory note.)]

13. Secondary evidence.— (1) Original not duly stamped — Secondary evidence is not admissible. 1899 All WN 210 (210) (DB) ** AIR 1958 Raj 72 (73) ** AIR 1955 Cal 561 (562) = ILR (1956) 2 Cal 45 (DB). (Where the original document is insufficiently stamped and is not produced for validation by payment of requisite stamp duty and penalty the certified copy of the document becomes inadmissible in evidence.) ** (1896) 18 All 295 (298) ** AIR 1922 Lah 401 (403) = 3 Lah 282 (DB) ** AIR 1947 Lah 306 (307) = 48 Cri LJ 354 ** AIR 1925 Mad 753 (753) ** (1907) 30 Mad 386 (387, 388) (DB) ** AIR 1920 Nag 131 (132) = 16 Nag LR 68 ** AIR 1928 Rang 32 (33) ** AIR 1971 Punj 458 (458) = 1971 Cur LJ 212. (Where the rent note executed in a Bahi is inadmissible in evidence for not being duly stamped, no secondary evidence regarding its contents can be given.) ** (1966) 2 Andh LT 230. (Secondary evidence of unstamped unregistered document to prove its contents — Not permissible.)

(1A) Sections 35 and 36 are not concerned with copy of document. A party can only be allowed to rely on a document which is an instrument for purposes of these sections. **AIR 1971 SC 1070 (1074).** (AIR 1927 Rang 109 and AIR 1937 Mad 431 **Overruled.**)

(2) In view of Sections 35 and 36 secondary evidence by way of oral evidence or copy of document insufficiently stamped is not admissible in a suit even though objection to its admissibility cannot be taken under Evidence Act. **AIR 1971 SC 1070 (1074).** (AIR 1927 Rang 109 and AIR 1937 Mad 431, **Overruled.**)

[See also 1970 Ker LJ 356 (366).]

(3) When an insufficiently stamped document is produced before the Court, it can be admitted in evidence provided the requirements of Section 35 of the Stamp Act are fulfilled. But if the document is not before the Court, when it is found that it is insufficiently stamped, admission of secondary evidence would practically amount to acting upon an insufficiently stamped document which is quite contrary to the imperative language of Section 35 of the Indian Stamp Act. (1967) 2 An WR 444 (451, 452).

(4) Copy of an instrument not duly stamped cannot be admitted in evidence after payment of penalty. (1968) 2 Andh LT 212 (218) (DB).

(5) Under this section it is only the original of an instrument not duly stamped that can be admitted in evidence on payment of deficit duty and penalty. **(1900) 23 Mad 49 (54) = 26 Ind App 262 (PC)** ** AIR 1951 Pepsu 24 (Pr 2) ** ILR (1951) 1 Raj 190 (192). (Section 65, Evidence Act, which permits production of secondary evidence in respect of lost documents presupposes that but for one or more of the barriers to its production stated in the section, the document would have been capable of proving its contents under S. 64 read with S. 62. Evidence Act.) ** AIR 1947 Lah 306 (307) = 48 Cri LJ 354 ** AIR 1946 Mad 298 (298, 299) = ILR (1946) Mad 672 (DB) ** **AIR 1962 SC 110 (113) = (1962) 1 SCR 827** ** (1962) 40 Mys LJ 899 (900, 901). (Lost document improperly stamped — Document lost while in custody of Court — Certified copy produced pending reconstruction by Court — After the document is reconstructed, it would be open to party to bring it before Court and to offer to pay duty and penalty.)

[But see ILR (1957) Andh Pra 739 (741).]

(6) Where a promissory note contains all the substantial terms of the contract of loan, oral evidence would not be admissible to prove the loan transaction when the promissory note is not properly stamped. AIR 1952 All 509 (509) = 1952 ALJ 168.

(7) An unstamped counter part of a partnership deed which is executed at the same time as the original does not stand on the same footing as the copy of the original and therefore it is admissible in evidence on payment of duty and penalty even though no proof of loss of the original deed on a proper stamp paper is given. AIR 1951 Punj 441 (Pr 13).

(8) Even where the original has been destroyed by the wrongful act of the party objecting, secondary evidence of an unstamped document cannot be given. (1844) 41 ER 680 (682) = 13 LJ Ch 221 ** (1819) 106 ER 440 (441) = 21 RR 363.

(9) Original duly stamped — Secondary evidence can be admitted in cases mentioned in Evidence Act, without any question arising

Section 35 — Note 13 (contd.)
as to stamp. (1908) 5 All LJ 162 (163) ** AIR 1914 Lah 524 (526, 527) (DB) ** (1825) 130 ER 526 (526, 527).

(10) Original not chargeable with duty — Secondary evidence can be admitted in cases mentioned in Evidence Act. without any question arising as to stamp. AIR 1928 Pat 134 (137) = 7 Pat 99 (DB) ** AIR 1928 Rang 32 (33) = 5 Rang 650.

(11) Compromise petition lost in the Great Indian Mutiny of 1857. It was presumed that the officer before whom it had been presented had satisfied himself that it was duly stamped. **AIR 1916 PC 41 (43) = 43 Ind App 264 = 38 All 494.**

(12) Presumption of due stamping under Section 89, Evidence Act, cannot arise where there is no reliable evidence to show that the document is in the possession of the party and that he is intentionally withholding the same. AIR 1938 Lah 90 (91).

14. Admissibility of other evidence to prove transaction.— (1) Instrument, contract — Other evidence of terms of contract will not be admissible. (1881) 3 All 717 (722) (DB) ** (1890) 14 Bom 102 (110) (DB) ** (1875) 24 Suth WR 88 (89) (DB) ** 1906 Pun Re No. 66, p. 239 (241) (DB).

(2) Receipt inadmissible in evidence as not being duly stamped — Fact of payment can be proved by other evidence including oral evidence. AIR 1923 Nag 32 (33).

(3) Deed of divorce not stamped nor forthcoming — Divorce can be proved by oral evidence. AIR 1947 Lah 306 (307) = 48 Cri LJ 354.

(4) Terms of unregistered partition deed are inadmissible in evidence. Fact of partition can be proved by other evidence. **AIR 1965 Andh Pra 274 (276, 277, 279) = (1965) 1 Andh LT 310 (FB).** (AIR 1962 Andh Pra 443 **Overruled.**)

15. Unstamped decree for partition.— (1) An unstamped partition decree would be validated from the date it was made on supplying stamp paper. AIR 1972 Punj 408 (413) = 1972 Cur LJ 543.

(2) Unstamped decree for partition cannot be executed. But it can be executed or admitted in evidence on payment of the requisite duty and penalty. AIR 1947 Bom 96 (98) = ILR (1946) Bom 876 ** AIR 1957 Punj 65 (69) = ILR (1957) Punj 365. (An execution application can be made even though no decree-sheet has been drawn up and no stamp duty has been paid; the impediment because of Section 35 of the Stamp Act is that such a decree cannot be executed.)

(3) Decree for partition specifying allotments not followed by formal final decree on requisite stamp paper — It is however open to parties to effect amicable partition by metes and bounds. (1961) 65 Cal WN 743 (745, 746) (DB).

(4) Final decree in terms of compromise in partition suit — Properties allotted to each share specified — Decree not engrossed on stamp paper — Legal title does not accrue in favour of any party to the allotments made unless and until final decree is formally engrossed on requisite stamp paper. AIR 1957 Cal 375 (376) = 99 Cal LJ 57.

(5) Decree for sale of an impartible property is an instrument of petition. **AIR 1973 Delhi 154 (155).**

16. Registration.— (1) Document registered — Its registration is not rendered invalid by reason of document not having been duly stamped at the time of registration. **AIR 1929 PC 279 (282).**

[See also AIR 1953 Mad 941 (Pr 7) = 1953 Cri LJ 1756.]

(2) Section 35 imposes a duty on registering officer to examine whether instrument presented for registration is duly stamped — This he can only do before registration and not thereafter. **AIR 1966 Madh Pra 20 (22, 24) = 1965 MPLJ 606 (FB).**

(3) If an objection is taken to the admissibility of a document on the ground that it is not stamped and registered, the Court must first decide both the questions. If it finds that the document requires registration and therefore is inadmissible, being unregistered, the document itself will have to be rejected. The Court cannot first ask the document to be stamped and thereafter decide whether it would require registration. 1955-1 Mad LJ 457 (457, 458).

(4) Document presented for registration insufficiently stamped — It is good presentation though actual registration is delayed. (1885) 11 Cal 750 (754) (DB).

17. Arbitration agreement.— (1) Agreement to refer to arbitration is not invalid though unstamped. AIR 1916 Sind 86 (92) = 10 Sind LR 14.

18. Arbitration proceedings.— (1) Arbitrators are also bound by Section 35. AIR 1924 Cal 794 (795) (DB). (If arbitrators actually proceed to act on reference, provisions of Section 36 will come into play and proceedings cannot be questioned afterwards.) ** AIR 1921 Cal 613 (614) (DB) (Do.)

(2) Where one transaction creates an independent personal obligation to pay a certain sum of money and the other transaction merely strengthens the first transaction by adding a right to proceed against charged property, the second transaction with regard to charge being a severable transaction can be validly ignored and award to the extent it declares personal obligation to pay is admissible in evidence, the transaction not being required to be compulsorily registered. **AIR 1972 SC 1121 (1124, 1125) = 1972 SCD 783.**

(3) Award by arbitrators which is written on unstamped paper can be admitted in evidence on payment of duty and penalty. (1913) Pun Re No. 66 = 20 Ind Cas 491 (492) (DB). (Application to file award.) ** 1954 AMLJ 114 (115). (An award which is not engrossed on stamped paper or is engrossed on an insufficiently stamped paper may be validated with retrospective effect by payment of the duty or deficit duty.)

(4) Stamped copy of award cannot be received in evidence and acted upon under Section 17 of Arbitration Act — Original unstamped award filed along with copy of award written on stamp — **Held**, although original award could not be regarded as having been duly stamped in circumstance of the case, stamp on copy might be treated as intended to serve as payment of stamp duty and penalty so as to enable original award to be admitted in evidence. **AIR 1967 Andh Pra 257 (264, 265) = (1966) 2 Andh LT 300 (FB).**

(5) Unstamped award — Admissibility on **payment of penalty** — Document requiring

Section 35 — Note 18 (contd.)
registration — Court should not grant time to pay duty and penalty. AIR 1963 Andh Pra 193 (196, 197) = (1963) 1 Andh WR 45 (DB).

(6) It cannot be said that an award was no award on account of its not being duly stamped when it was given. It may not have been possible to act upon it at that time but when the duty and penalty had been paid, it could be acted upon. The mere filing of award before court does not amount to acting upon it. ILR (1969) 1 All 546 (554, 555) (DB).

19. Proviso (a) — General.— (1) This proviso is mandatory and a document which is not one of those excepted under it, must be admitted in evidence on payment of the deficit duty and penalty. **AIR 1924 PC 221 (221) = 4 Pat 34** ** AIR 1951 Punj 441 (Pr 13). (Unstamped counterpart of a partnership deed is admissible on payment of duty and penalty even though proof of loss of original deed on stamp paper is not proved.) ** AIR 1944 Pat 226 (227) = 23 Pat 18 (DB) ** AIR 1947 Bom 96 (98) = ILR (1946) Bom 876.

[See also AIR 1953 Raj 211 (Prs 7, 9) = ILR (1952) 2 Raj 879 (DB). (Balance of previous account struck in khata of debtor in account book of creditor — Certain rate of interest also recorded — Khata stamped with one anna stamp — Document at best be considered to be an agreement and not a promissory note and can be used in evidence on payment of penalty.)]

(2) A copy of a document does not have the same status or value as the original itself. But when an original document placed in the custody of a Court is lost and subsequently reconstructed by the Court. the reconstructed document is placed on par with the original. (1963) 2 Mys LJ 141 (143, 144). (Observations in 1961 (1) Andh WR 193, **Diss. from.**)

(3) Value of property not set forth in document — Document unstamped — Document is admissible and is not liable to be impounded and taxed in manner provided by Section 35. AIR 1961 Madh Pra 6 (Pr 9).

(4) It is only this section that will now be applicable to a question of admissibility of an unstamped or insufficiently stamped document under whichever Act the duty payable may be determined. 1873 Bom PJ p. 112 reprint p. 267 (279) (DB).

[See also AIR 1957 Raj 47 (49) = ILR (1957) 7 Raj 323 (DB). (The question of admissibility of a document is a matter of procedure, and the law applicable must be the law in force at the time it is sought to be admitted. Note.— The case is **reversed** on another point in **AIR 1961 SC 1655.**]

(5) The prohibition contained in proviso (a) of Section 35 of the Stamp Act (1899) does not come into play in Rajasthan and an acknowledgment can be admitted into evidence on payment of duty and penalty as prescribed by Rajasthan Stamp Law (Adaptation) Act. 1966 Raj LW 370 = ILR (1966) 16 Raj 577 (1) (577).

(6) If, a document is construed as a bond and not as a promissory note, it can be admitted in evidence on payment of requisite stamp duty and penalty. AIR 1957 Raj 387 (387, 388).

(7) Party is entitled to an opportunity to pay deficit duty and penalty after the Court has held that document is not duly stamped. **(1966) 10 Moo Ind App 438 (452) (PC).**

(8) Party denied opportunity to pay deficit duty and penalty — He can be allowed to pay amount in appeal or second appeal. (1920) 55 Ind Cas 923 (923) (UPBR) ** (1873) 10 Bom HCR 441 (443) (DB) ** 1897 Bom PJ 382 ** AIR 1934 Lah 730 (732) ** AIR 1932 Lah 616 (617) = 13 Lah 516 (DB).

(9) No evidence that requisite amount was tendered and refused in trial Court and such Court rejected document — Appellate Court cannot accept payment and admit document. **1883 All WN 93 (97) (FB)** ** (1896) 20 Bom 791 (794) (DB) ** (1873) 10 Bom HCR 441 (443) (DB) ** (1879) 4 Cal 213 (215) (DB) ** (1900) 1 Low Bur Rul 84 (84).

(10) Under this proviso, the document is to be admitted in evidence on payment of deficit duty and penalty. The fact that an instrument could be validated under the proviso will not make it enforceable until the necessary stamp duty and penalty are paid. AIR 1954 Nag 293 (Pr 9) = ILR (1954) Nag 392 (DB) ** (1965) 69 Cal WN 503 (510).

(11) Lease of property for more than a year unstamped and unregistered — Subsequent payment of stamp duty and penalty would remove defect of being unstamped. But the document not having been registered could not be admitted in evidence. AIR 1967 Andh Pra 331 (336) = (1967) 1 Andh LT 345 (DB).

(12) Unstamped document filed in Court — Stamp duty and penalty have to be collected at time of admission of document under proviso (a) to Section 35 and not before stage of admission is reached. AIR 1961 Andh Pra 424 (Pr 17).

(13) Court cannot, after it has admitted a document in evidence and passed a decree in the case. require the deficit duty and penalty to be paid. AIR 1927 Cal 472 (473) = 54 Cal 445 (DB) ** AIR 1937 Oudh 176 (177).

(14) The jurisdiction to decide the question of stamp duty and penalty conferred by this proviso is only incidental to reception of a document in evidence. If the party at whose instance it was brought to the Court and who wanted it to have it as part of his evidence in the case wanted first an adjudication by Collector as to proper stamp duty and penalty leviable on it, Court has only to accede to that request and not impose a decision which the party did not want. Even where the party has first invited the Court to decide the matter, if, before it pronounced its order, he has resiled from it, the Court has only to follow the procedure prescribed in Sections 33 and 38 (2). AIR 1953 Trav-Co 559 (Pr 6) = ILR (1953) Trav-Co 739 (DB).

(15) Burden of paying the deficit duty and penalty under this section falls in the first instance on the person who seeks to have the document admitted in evidence. (1908) 30 All 271 (272) (DB) ** (1962) 54 ER 1037 (1039, 1040) = 31 Beav 1 ** (1968) 70 Punj LR 853 (Party paying has right to claim such amount from executant.)

(16) Levy of stamp duty and penalty — Collector should proceed only against executant — Person who has not signed a document and undertaken any obilgation under it is not liable. AIR 1962 Mad 425 (426).

Section 35 — Note 19 (contd.)

(17) Stamps used not of proper description — Their value cannot be taken into account in calculating deficit duty. **(1909) 19 Mad LJ 35 (41) (FB). ** (1892) 15 Mad 259 (261) (SB)**

[But see AIR 1922 Low Bur 27 (28) = 11 Low Bur Rul 316.)]

(18) Execution sale — Certificate of sale once granted without stamp — Court is not bound to grant another certificate on proper stamp in order to enable purchaser to avoid penalty under this section. (1885) 9 Bom 526 (527) (DB).

[See however **AIR 1930 Bom 392 (394) (FB).**]

(19) The proviso expressly authorises admission in evidence of a document on payment of penalty. This includes the power to "act on" on the document so admitted e. g., by passing a decree on a bond. AIR 1921 Cal 613 (614) (DB).

[See AIR 1952 All 996 (Prs 27, 47) = ILR (1952) 2 All 984.]

(20) A clerk cannot admit a document in evidence; that is a task reserved for the Court. AIR 1922 Lah 354 (354).

(21) Suits already disposed of and decrees signed and sealed — Provisions of this section are wholly inapplicable — Court cannot levy deficient stamp duty and penalty on any instrument admitted in evidence. AIR 1927 Cal 472 (473) = 54 Cal 445 (DB) ** AIR 1957 Madh Pra 206 (206).

(22) A revision lies against an interlocutory order of a Munsiff determining the nature of the document produced by the plaintiff and admitting it in evidence on payment of duty and penalty under Proviso (a). AIR 1957 J and K 49 (49). (It is not clear if Section 39 would apply in such a case as the document is not in fact, impounded by the trial Court.)

20. Promissory note.— (1) Duty payable on promissory note more than one anna — Note will be inadmissible in evidence if it is not duly stamped. **1880 Bom PJ 333 (SB) **** (1874) 7 Mad HCR 361 (363) (DB).

(2) Documents containing an unconditional undertaking or promise to pay money and money only — No words prohibiting transfer or indicating intention that it should not be transferable — Documents held to be promissory notes — Section 35 will apply and prevent the Court from receiving them as evidence if they are not duly stamped. 1971 Ker LR 498 (500, 501).

(3) Although a promissory note payable on demand is liable to duty as a "bond", it cannot be treated as a "bond" for the purposes of this section and must be held to be inadmissible even on payment of penalty. AIR 1945 Mad 42 (42).

(4) Admissibility of promissory note — Section 34 of the Mysore Stamp Act does not apply — Proviso to Section 35 of the Indian Stamp Act applies. (1970) 2 Mys LJ 48 (49, 50).

(5) Promissory note — Acknowledgments of debt containing promise to pay the money due with interest — Rate of interest not specified — It is not a promissory note within meaning of Section 2 (22). Stamp Act as the sum payable under it is not certain as required under Section 4 of Negotiable Instruments Act — It remains what it purports to be i. e., acknowledgment pure and simple — Hence cannot be said to be hit by Section 35 of Stamp Act and inadmissible in evidence for want of necessary stamps. 1968 All WR (HC) 244 (247) = 1968 All LJ 171.

(6) Receipt though coupled with a promise to pay the money acknowledged to have been received can be received in evidence on payment of penalty. **AIR 1936 PC 171 (174) = 63 Ind App 279 = 17 Lah 557.**

(7) Document containing an acknowledgment of receipt of money with an agreement to repay the same in specified time with stated interest — Document is not a promissory note — Section 35 (a) is not applicable. (1971) 37 Cut LT 1270 (1274).

(9) Receipts which evidence the deposit or merely acknowledge payment done in some earlier transaction when read as a whole and when looked at its entire substance in the context of intention of parties, could never be treated as promissory notes merely because such receipts are coupled with an express promise to pay amount mentioned in document on demand. (1972) 13 Guj LR 19 (21 to 23).

(9) Promissory note itself altered in material respect — Altered instrument will have to be again duly stamped as promissory note and if it is not so stamped, it is not admissible in evidence on payment of penalty. (1936) 14 Rang 29 (40) (DB). (Instrument varying terms of promissory note is itself not promissory note.)

(10) Letter reciting that mentioned amount which was borrowed would be repaid with interest within 10 days to payee and the letter will be taken return of — **Held** that the document is not a promissory note and is not inadmissible for want of stamp. (1966) 1 And LT 439 (440).

(11) Document reciting borrowing of money mortgaging certain land and also promise to repay loan within certain period — Document held not a promissory note but a simple mortgage — It is admissible in evidence after paying stamp duty and penalty. AIR 1969 Manipur 23 (25, 26).

21. Instrument chargeable with duty of one anna or half anna.— (1) Instruments chargeable with a duty of one anna or half an anna, if not duly stamped, are totally inadmissible and cannot be admitted in evidence even on payment of duty and penalty. 1882 Bom PJ 29 ** 1894 Pun Re No. 69, p. 229 (231) (DB) ** AIR 1933 All 577 (579) ** AIR 1923 All 297 (297, 298) = 45 All 374 (DB) ** (1882) 8 Cal 282 (283) (DB).

(2) Where though the instrument contains an acknowledgment of a debt it is not covered by Article 1; it will, if not duly stamped. be admissible on payment of penalty. AIR 1933 All 179 (180) = 54 All 761 (DB) ** AIR 1938 Lah 511 (512) ** AIR 1931 Lah 631 (631) (DB).

[But see AIR 1934 Nag 273 (274) = 31 Nag LR 105 ** AIR 1938 Nag 464 (464).]

(3) Implied promise to pay the debt inherent in an acknowledgment — Does not take it out of first part of Article 1 of Sch. I — Such acknowledgment inadmissible in evidence. AIR 1951 Mad 605 (606) = (1951) 1 Mad LJ 707.

36. Admission of instrument where not to be questioned.—Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

[1879—Section 34, Prov. (3).]

Section 35 — Note 21 (contd.)

(4) An acknowledgment contemplates a pre-existing debt. Where it is not the contention of the plaintiff that the entry in his bahi was on the settlement of previous account the entry is not an acknowledgment and is not hit by Section 35 and does not require to be stamped with one anna stamp. 1961 Jab LJ 477 (477).

(5) Expression "Baki dena" in Khata entry is a promise to pay the balance and as such it is not an acknowledgment pure and simple — It is not hit by Article 1 of Sch. 1 — Such acknowledgement if unstamped is admissible in evidence on payment of requisite penalty. AIR 1951 Madh Bha 78 (78, 79).

(6) Acknowledgments were taken out of Section 35 by the E. P Amendment Act. Therefore insufficiently stamped acknowledgment is inadmissible in evidence. (1965) Pun LR (Sup) 522 (523).

(7) Where a suit for money is based on an unstamped letter which is ambiguous the plaintiff should be asked to explain as to how he wanted the letter to be interperted in his favour whether as an acknowledgment or otherwise, and to adduce such evidence as he liked in support thereof. The Court cannot treat it as "acknowledgment" and as such being inadmissible and dismiss the suit. AIR 1952 Ajmer 24 (2) (24).

22. "Subject to all just exceptions.— (1) Words "subject to all just exceptions" do not give any general discretion to the Court as to the admission of a document but mean those exceptions in which a document is rendered inadmissible by the provisions of any other statute. AIR 1939 All 515 (516) = ILR (1939) All 546 (DB) ** (1925) 48 Mad 631 (635) (DB).

[See however AIR 1935 Nag 54 (55) = 31 Nag LR 162.]

(2) A, the first wife of B, presented for registration maintenance deed — Document insufficiently stamped — Collector ordered payment of deficient duty and penalty — B, when called upon to pay amount, paid it under protest that document was forgery — **Held**, that man could not be called upon to validate document which he declares forgery. (The deficient duty and penalty collected were refunded.) (1933) Mad SM, p. 41.

23. Proviso (b).— (1) Person tendering the receipt in evidence cannot be required to pay the duty on it in addition to the penalty of Rupee 1. **(1902) 24 All 374 (376) (SB).** (Receipt admitted in evidence under this proviso — Receipt need not be endorsed in manner provided for in Section 42.)

(2) Plaintiff advancing money to defendant — Defendant acknowledging receipt of money — Instrument is receipt and not acknowledgment and would be admissible in evidence on payment of penalty. AIR 1966 Mad 359 (359) = (1966) 1 Mad LJ 304.

24. Proviso (c).— (1) Correspondence containing complete agreement independently of subsequent draft and engrossed lease which lessor refuses to execute — Correspondence must be stamped and penalty paid before it can be admitted in evidence. (1890) 17 Cal 548 (556).

(2) Where an agreement refers to another document, so that the two papers in fact form only one agreement, it is sufficient if one of the papers only bears an agreement stamp. (1834) 149 ER 1145 (1146) = 4 LJ Ex 28.

(3) Contract of marriage — No stamp duty necessary. (1818) 171 ER 670 (671) = 2 Stark 351.

25. Proviso (d).— (1) Except in the proceedings under the chapters contained in this proviso, a Magistrate is not justified in excluding from consideration a document on the ground of its not being duly stamped. AIR 1916 Cal 310 (311) (DB).

26. Delivery of signed and stamped blank paper.— (1) If a person chooses to entrust to his own man of business a blank paper duly stamped as a bond and signed and sealed by himself in order that the instrument may be duly drawn up and money obtained upon it from persons who have no reason to doubt the bona fides of the transaction, it must be taken, in the absence of any evidence to the contrary, that the bond was drawn up in accordance with the obligor's wishes and instructions. (1880) 5 Cal 39 (42) (DB).

(2) Several stamps delivered separately — No authority is given to stick them together for single instrument. AIR 1920 Nag 45 (47).

27. Party succeeding on stamp objection.— Right to costs.— (1) Party winning an action merely on the strength of a stamp objection may be deprived of his costs. (1911) 1 KB 137 (144) = 80 LJKB 236.

SECTION 36 — SYNOPSIS

1. Scope.
2. "Where an instrument has been admitted in evidence."
3. "Such admission shall not be called in question."
4. "Same suit or proceeding."
5. Objection in same Court.
6. Objection before appellate Court.
7. Revision.
8. Document not admissible even on payment of penalty.
9. Unstamped partition decree.
10. Document rejected by lower Court — Power of appellate Court.
11. Admission of secondary evidence.
12. Arbitration proceedings.

1. Scope.— (1) Order 13, Rule 3, Civil P. C., must be read subject to this section which is mandatory. AIR 1937 Mad 431 (432).

(2) After a document has once been admitted in evidence its admissibility cannot be questioned on the ground that it is not duly stamped. **AIR 1929 PC 279 (282) ** AIR 1957**

Section 36 — Note 1 (contd.)
Hyd 35 (36). (The section is mandatory.) ** AIR 1954 Raj 173 (Pr 21) (DB) ** AIR 1957 Andh Pra 1022 (1023) ** ILR (1922) 2 Cal 196 (208).

(3) Section 36 is an exception to Section 35. AIR 1954 Raj 173 (Pr 26) (DB).

(4) Though the section cannot in terms apply to the decision of a chairman of the meeting of the shareholders of a company that certain proxies should be allowed or should not be allowed for want of sufficient stamp, the principle of this section will apply and the decision will be binding on him and his successor and cannot be canvassed at a subsequent stage. AIR 1952 Mad 515 (Pr 19a) (Note.— It may however be noted that Section 36 cannot apply where the document has been rejected by the trial Court — Hence the decision in so far as it applies the principle of this section to such cases is submitted to be not correct.)

(5) When questions as to the admissibility of evidence are raised during the course of the trial, they should be decided as they arise and should not be reserved until judgment in the case is given. AIR 1957 Andh Pra 1022 (1023).

(6) In applying the provisions of this section, the Court should have regard to what has been actually done and not to the unexpressed intentions of the Judge. AIR 1957 Andh Pra 1022 (1023).

(7) An admission to mark a document admitted in evidence as exhibited and giving it a number is a mere curable procedural irregularity and not an illegality under O. 13 Rule 4, C. P. C. The substantive law in the Stamp Act and the procedural law in the C. P. Code do make a clear distinction between production of a document and its admission in evidence. AIR 1971 All 434 (437, 438) = 1971 All WR (HC) 410.

(8) For the purpose of Sections 3, 33. 35 and 36 an "instrument" means an instrument chargeable with duty. irrespective of whether such instrument falls or does not fall within the definition thereof contained in Section 2 (14). AIR 1971 All 287 (289) = 1970 All WR (HC) 348.

(9) Definition of "instrument" does not cover copy of document for purposes of Stamp Act. **AIR 1971 SC 1070 (1074).**

(10) Section does not create any bar against an instrument not duly stamped being acted upon. **AIR 1969 SC 1238 (1240) = (1969) 2 SCJ 791.** (AIR 1952 All 996, Overruled.)

(11) The requirement of stamping and the prohibition of admitting an unstamped document as evidence will be operative only in relation to proceedings before Courts or other officers. As between the parties themselves, that too parties to a compromise decree it becomes operative immediately and the rights and obligations between them spring forth in accordance with the terms of the decree itself. Therefore when stamp on compromise decree providing interest payable by one party to other, paid late interest for earlier period can be claimed. AIR 1969 Mad 84 (85) = (1969) 1 Mad LJ 135.

(12) In order to determine whether there is a material alteration in the document or not it is not material whether the document has been admitted in evidence under Section 36 or not. AIR 1959 Raj 96 (97) = 1959 Raj LW 61.

(13) Transfer of shares — Condition in Section 34 (3) of Companies Act cannot be waived — Its breach will bar company from registering transfer — Fact that instrument can be validated under Section 35, Proviso (a) of Stamp Act will not make it enforceable until necessary stamp duty and penalty are paid — Section 36 has no application to such a case. AIR 1954 Nag 293 (296) = 1954 Nag LJ 455 (DB).

(14) The decision of the trial Court regarding the admission of any document in evidence after considering the sufficiency or otherwise of the stamps being final, the duty of the trial Court is to decide, with due regard to the facts and circumstances. But once it has decided. it has to take consequential steps straightway. It cannot put them off so as to enable the aggrieved parties to evade the provisions of Section 36 of the Stamp Act. AIR 1962 Madh Pra 384 (384) = 1962 MPC 302 ** (1968) 1 Andh WR 221 (231).

2. "Where an instrument has been admitted in evidence".— (1) The expression "admitted in evidence" means that the document must have been let in as part of the evidence. AIR 1937 Mad 431 (432) ** AIR 1959 Raj 156 (160) (DB) ** AIR 1957 Hyd 35 (36).

(2) Where the Court finds in course of the judicial proceeding that the document is admissible, it is really admission for the purpose of Section 36 and cannot be called into question. AIR 1961 Madh Pra 6 (Pr 5).

(3) Where on the date of the institution of the plaint the Court ordered the plaintiff to pay the proper stamp duty and penalty on the suit document, it cannot be said that the document has been admitted on that date even if the plaintiff has paid the duty and penalty and it is open to the defendant to raise in his written statement an objection to the admissibility of the document in evidence. ILR (1959) 9 Raj 1165 (1166).

(4) Merely because a document has been marked as an exhibit will not necessarily have been "admitted in evidence". AIR 1935 Mad 888 (889, 890). (In order that document may be regarded as "admitted in evidence" it is necessary that person who has let document must have had authority to do so.) ** AIR 1937 Tripura 28 (31). (Admission must be result of judicial determination — Mere marking under O. 13 Rule 4 is not enough.) ** AIR 1954 Sau 52 (Pr 4). (The words "admitted in evidence" mean admitted after judicial consideration of the circumstances relating to its admissibility.) ** AIR 1928 Rang 263 (264) ** AIR 1929 Mad 522 (522) (DB) ** (1910) 12 Bom LR 466 (469) (DB). (Expression "admitted in evidence" means that document must have been let in as part of evidence as a result of judicial determination of the question whether it can be admitted in evidence or not for want of stamp.) ** AIR 1933 Lah 148 (149) (DB) ** AIR 1966 Andh Pra 184 (185. 186) = (1965) 2 Andh WR 276 ** 1965 All LJ 850 (852).

(5) For purposes of the proceedings or the case, it shall be deemed to have been duly stamped and except as provided by Section 61 no objection with regard to its admission can be taken at subsequent stages — Document may be acted upon and a decree

Section 36 — Note 2 (contd.)

can be passed on its basis provided there is no bar other than one created by Section 35 to acting upon it. AIR 1961 Him Pra 44 (Pr 13) ** 1961 Ker LT 151 (152).

(6) This section refers to all instruments that have been admitted in evidence, whether on payment of the deficit duty and penalty or on the ground that they have been duly stamped or are not chargeable with stamp duty. It contemplates all cases of erroneous admission in evidence. AIR 1952 All 996 (Pr 32) (DB). (Per Desai J.)

(7) Under this section it matters nothing whether the document was admitted wrongly or rightly or admitted without objection or after hearing or without hearing such objection. AIR 1939 All 588 (590) (DB) ** AIR 1958 Pat 434 (439) (DB) ** AIR 1954 Raj 173 (Pr 31) (DB). (If there is an order of the Court admitting the document, the endorsement under Order 13, Rule 4, Civil P. C., is merely the following up of that order.) ** AIR 1957 Andh Pra 1022 (1022) ** Madh BLR 1955 Civil 212 (213) ** AIR 1953 Pat 365 (Pr 5) (DB) ** AIR 1952 Vindh Pra 25 (Pr 9). (Court postponing consideration of objection as to stamp — Court admitting document in evidence without considering objection — Objection cannot be reagitated.) ** AIR 1953 Pat 209 (Pr 5) ** AIR 1938 Mad 933 (939) ** AIR 1937 Pat 73 (74, 75) (DB) ** AIR 1937 Mad 431 (431) ** AIR 1936 Cal 556 (559) (DB) ** AIR 1928 Pat 155 (156) (DB) ** AIR 1930 Cal 577 (577) (DB).

[See also 1961 Ker LT 151 (152).]

[See however AIR 1957 Raj 47 (50) (DB). (Suit on hundies — Issue as to admissibility — Witness referring to hundies on another issue — Court endorsing hundis as "admitted in evidence" — Issue not decided on merits — Case held one of admission by mistake — Endorsement held for identification only — Decision of issue held not waived — High Court held not barred from considering question of admissibility.) ** AIR 1957 Hyd 35 (36) ** AIR 1957 Ker 105 (106) ** AIR 1957 Trav-Co 272 (273) ** AIR 1957 Tripura 28 (31) ** AIR 1956 Mad 250 (254). (If the Court has not applied its mind but allowed it to be endorsed under Order 13, Rule 4 that would not however deprive the Court of the right of rejecting it if, on consideration of any objection raised to its admissibility, the Court comes to the conclusion that the document is inadmissible. AIR 1929 Mad 522 Foll; AIR 1932 Mad 693, **Dissented from.**)]

[But see (1910) 12 Bom LR 466 (469) (DB) ** AIR 1933 Lah 271 (273) ** AIR 1935 Mad 888 (890) ** AIR 1929 Mad 522 (523) (DB) ** AIR 1919 Nag 141 (143) ** AIR 1928 Rang 263 (264).]

(8) Where a question as to the admissibility of a document is raised on the ground that it has not been stamped or has not been properly stamped, the party challenging the admissibility of the document has to be alert to see that the document is not admitted in evidence by the Court. The Court has to judicially determine the matter as soon as the document is tendered in evidence and before it is marked as an exihibit in the case. Once the document has been marked as an exihibit in the case and has been used by parties in examination and cross-examination of their witnesses, Section 36 comes into operation. Once the document has been admitted in evidence, as aforesaid, it is not open either to the trial Court itself or to a Court of appeal or revision to go behind that order. Such an order is not one of those judicial orders which are liable to be reviewed or revised by the same Court or a Court of superior jurisdiction. **AIR 1961 SC 1655 (Pr 4).** (AIR 1957 Raj 47, **Reversed;** AIR 1957 Trav-Co 272, AIR 1954 Sau 52, AIR 1949 Mad 300 and AIR 1933 Lah 148, cannot now be considered good law.) ** AIR 1966 Andh Pra 184 (185 and 186) = (1965) 2 Andh WR 276 ** ILR (1972) 21 Cal 196 (208).

(9) Where the disputed document was not only marked as exhibit but also shown to the witnesses for purposes of identification it is clearly a case of admission of the document in evidence. 1957 Andh LT 284 (285).

(10) The absence in Section 36 of the words "acted upon" which occur in Section 35 does not mean that the Court of Appeal is bound only to admit the document but not to act upon it. When the Appellate Court is bound to hold that the admission is proper, then it follows that it must act upon the document and cannot refuse to do so. AIR 1957 Tripura 28 (31, 32).

(11) Mere production and presentation of a document in Court are not equivalent to its admission in evidence. AIR 1922 Lah 401 (403) (DB).

(12) If a document is held by a Court to be admissible on the ground that it requires no stamp or on the ground that it is sufficiently stamped, then only the document should be deemed to be admitted on the day the order is passed; but if it is held by the Court that the document is not sufficiently stamped and if time is given for paying the duty and penalty then the document would not be considered to have been admitted, but it would be deemed to be admitted on the day on which the duty and the penalty is accepted by the Court. AIR 1957 Raj 360 (361).

(13) Judge let in document subject to payment of duty and penalty — Document must be deemed to have been "admitted in evidence" although full stamp duty and penalty have not yet been paid, where there is no suggestion that party was not prepared to pay duty and penalty. AIR 1923 Lah 657 (657) (DB).

(14) In order that a document may be regarded as admitted in evidence, it is not necessary that there must be a separate written order deciding the admissibility of the document. AIR 1929 Lah 770 (771) (DB). (AIR 1925 Lah 552, **Reversed.**) ** AIR 1957 Him Pra 23 (23, 24). (Trial Court exhibiting unstamped entries in account-books after impounding and levying penalty — Documents held admitted after applying mind even if some details required by Order 13, Rule 4 had not been noted.) ** AIR 1957 Andh Pra 1022 (1024) (Document not rejected with endorsement as required by Order 13, Rule 6 — Document bearing all particulars of endorsement required to be made by Order 13, Rule 4 — Endorsement initialled by Judge — Document held admitted for purposes of Section 36 — It could not be said that Judge did not apply his mind.) ** AIR 1952 All 996 (Pr 30) (DB). (Per

Section 36 — Note 2 (contd.)
Desai J.— No specific order admitting document in evidence is essential for applicability of Section 36 while it is essential for applicability of Section 6.)

[See however 1912 Pun LR No. 169, p. 543 (546).]

(15) In applying the provisions of Sec. 36, the Court should have regard to what has been actually done and not to the unexpressed intentions of the Judge. AIR 1957 Andh Pra 1022 (1023).

(16) Judge, as fact. admitted document in evidence — Document must be treated as "admitted in evidence" although Judge has made note on instrument that stamp is not sufficient. AIR 1938 Mad 938 (939, 940).

(17-18) Instrument tendered in evidence had on it office note with number of exhibit — Word "Judge" written below for Judge's signature — Judge not signed or intialled it — Instrument held could not be said to have been "admitted in evidence." AIR 1940 Sind 194 (194) (DB).

(19) Section applies though the document admitted is the basis of the suit and not merely a piece of evidence in the suit. AIR 1934 Mad 383 (384) (DB) ** AIR 1957 Andh Pra 1022 (1022) ** AIR 1934 Mad 700 (700) ** AIR 1944 Bom 235 (235).

(20) Section applies not only to the admission of a document by the trial Court but also to such admission by the appellate Court. AIR 1923 Lah 657 (657) (DB) ** Madh BLR 1955 Civil 212 (213) ** 1890 Pun Re No 139, p. 445 (446) ** (1882) 5 Mad 220 (221) (DB).

(21) Where only a portion of document has been admitted in evidence, the appellate Court will not be precluded from questioning such admission but where an instrument has been admitted in its entirety, its admissibility cannot be questioned, even though the lower Court has only relied on a portion of the instrument. AIR 1938 All 619 (621).

(22) Where a promissory note was executed by A and B, a stamp was affixed afterwards and was cancelled by A by again signing it, it was held that the prohibition in this section applied to the case of the executant. A against whom the note had been admitted in evidence. But the section could not prevent B from resisting the admission of the note in evidence against him. AIR 1956 Bom 421 (423) (DB).

(23) Section applies also to an instrument which was executed while a prior Act was in force and which was not duly stamped according to such Act. AIR 1920 Cal 754 (755) (DB).

(24) Mere marking of document or showing it to witness is not such admission in evidence. (1964) 2 Andh WR 468 (469) = (1964) 2 Andh LT 374.

(25) Document provisionally admitted subject to final orders — Such tentative reception of document does not amount to admission of document within Section 36. AIR 1969 Andh Pra 417 (419).

(26) Document, stamped with Court-fee stamp, withdrawn with permission of Court and admitted in evidence after certification by Collector on payment of penalty to be duly stamped — No objection raised by other party — Sections 36 and 37 are attracted and admission cannot be called in question at subsequent stage of suit. AIR 1963 Assam 41 (45) = ILR (1963) 15 Assam 104 (DB).

(27) Document can be said to have been 'admitted in evidence' if Court has judicially determined the matter of admissibility as soon as it is tendered in evidence and before it is marked as an exhibit — When no written statement is filed by defendant, no question of his examination under Order 10. Rule 1 of Civil P. C. 1908, really arises and hence if in such a case a document unduly stamped is tendered in evidence and impounded as a bond without deciding the objection as to its admissibility in that examination it cannot be said that there was judicial determination of the matter of its admissibility — S. 36 not attracted. AIR 1967 Him Pra 29 (30).

(28) Document produced and its admissibility challenged — Decision given against party challenging — Document has for all practical purposes been admitted in evidence. 1956 MBLJ (Bhopal) 188 (190).

(29) 'Admitted in evidence' means 'let in as part of evidence' — Judicial consideration of question of sufficiency of stamp not necessary — Admission cannot be called in question at any stage of suit or proceeding on ground of insufficiency of stamp. AIR 1962 Ker 265 (266) = 1962 Ker LJ 528 (DB) ** ILR (1972) 2 Cal 1961 (208).

(30) Document 'admitted in evidence' means admitted after judicial consideration — Promissory note improperly stamped admitted in evidence without determining objection as to admissibility — Admission invalid — Merely because it was marked or shown to a witness it would not mean that objection raised by defendant had been rejected. (1964) 2 Andh WR 468 (469).

(31) Where the court inadvertently without applying its mind to the question of admissibility then S. 36 is not attracted. ILR (1970) 20 Raj 1120.

3. "Such admission shall not be called in question".— (1) Instrument not duly stamped admitted in evidence — Decree passed on such instrument — Not only admission of document in evidence but also decree thereon cannot be questioned. AIR 1944 Bom 235 (235) **** AIR 1961 SC 1655 (Pr 4)** ** AIR 1961 Madh Pra 6 (Prs 6, 7). (Matter is between State and the litigant who tenders the document — Court hearing appeal or revision may, however, suo motu reopen question.) ** AIR 1952 All 996 (Pr 50) (DB). (Per Brij Mohan Lall and Dayal JJ. — Desai J. dissenting — Section 36 prohibits an appellate Court not only from challenging the admission of a document in evidence but also from questioning the "acting upon" of the document.) ** AIR 1934 Mad 383 (384) (DB) ** AIR 1932 Mad 765 (767).

(2) Unstamped document exhibited in Court — Not open to party to challenge its admissibility on ground that it was not properly stamped. AIR 1969 Manipur 49 (51) ** (1968) 1 Mys LJ 591 = 15 Law Rep 170.

4. "Same suit or proceeding."— (1) Section only precludes an objection on the ground of want of due stamp being taken in the "same suit or proceeding." (1912) 23 Mad LJ 273 (275).

(2) Mortgage-deed not duly stamped admitted into evidence — Objection as to stamp at later stage of same proceeding would be of no consequence in view of Section 36. AIR 1960 Punj 604 (Pr 3).

Section 36 — Note 4 (contd.)

(3) Appeal under the Letters Patent is a stage of the same suit for purposes of this section. AIR 1923 Lah 657 (658) (DB).

(4) Admission of document in evidence — Validity thereof cannot subsequently be challenged in the same suit on ground of its not being duly stamped. **AIR 1970 Madh Pra 74 (78) = 1969 MPLJ 827 (FB).**

(5) Objection to affixture of improper stamp overruled by trial Court — Document cannot be challenged on same ground at any stage of same suit. (1960) 26 Cut LT 405 (413 and 414).

(6) Instrument admitted in evidence — Question of insufficiency of stamp cannot be agitated at any later stage of same suit. AIR 1962 Orissa 35 (37) = 27 Cut LT 177 ** (1973) 1 Cut WR 226 (228) ** ILR (1972) 2 Cal 196 (208).

(7) Promissory note insufficiently stamped admitted in evidence — Defendant precluded from raising objection as to its admissibility at later stage again. ILR (1963) 1 Ker 473.

(8) Pro-note admitted without any objection — Admission on ground of not being properly stamped or otherwise cannot be questioned at later stage of proceeding. 1933 Mys LJ (Supp) 391 (392).

(9) Pronote not bearing particulars to be endorsed either under Rule 4 or Rule 6 — **Held,** in absence of any endorsement to the contrary, only logical inference was that document was admitted in evidence and was marked as exhibit — **Held** further that in view of provisions of Section 36, Stamp Act (1899), admission could not be questioned at subsequent stage. (1968) 34 Cut LT 805.

5. Objection in same Court.— (1) Section precludes an objection being raised to the admissibility of a document after it has once been admitted in evidence, whether such objection is raised in the same Court or in a superior Court. 1892 Bom PJ 345 (DB) ** AIR 1957 Andh Pra 1022 (1022) ** AIR 1955 Madh B 81 (Prs 16. 17) (DB) ** AIR 1952 Raj 129 (Pr 5) (DB). (The promptness of objection is no consideration for ignoring clear provisions of Section 36.) ** (1955) Madh BLR 1955 Civil 212 (213) ** AIR 1941 Nag 255 (257) ** (1938) 178 Ind Cas 338 (338) (DB) (Oudh) ** AIR 1927 Cal 472 (473) (DB).

[See also **AIR 1961 SC 1655 (Pr 4).** (Document tendered marked as exhibit and used by parties in examination and cross-examination of witnesses — Admission cannot be questioned in trial Court itself at later stage or in Court of appeal or revision — AIR 1957 Raj **47, Reversed.)**]

(2) Where the document not duly stamped has been admitted in evidence and a decree passed in the suit, the Court cannot subsequently require the payment of deficit duty and penalty. AIR 1927 Cal 472 (473) (DB) ** AIR 1957 Madh Pra 206 (206).

(3) After a Court has once admitted a document in evidence, it cannot reject it as being not duly stamped. (1938) 178 Ind Cas 338 (339, 340) (DB) (Oudh) ** AIR 1933 All 821 (821) ** AIR 1915 Cal 280 (281) (DB) ** **(1885) 8 Mad 564 (566) (SB)** ** AIR 1923 Pat 404 (405, 406).

(4) Judge admitted document in evidence — His successor cannot question admissibility of document on ground of its being not duly stamped. (1926) 24 All LJ 389 (390) ** 1889) **13 Bom 449 (457) (FB).**

(5) Instrument not duly stamped — Instrument admitted in evidence by appellate Court — Subsequent objection to its admissibility is barred by Section 36. 1965 All LJ 850 (852).

6. Objection before appellate Court.— (1) Lower Court admitted instrument in evidence — Appellate Court is precluded by this section from entertaining except as provided by Section 61, any objection to admissibility of document on ground of its not being duly stamped. AIR 1931 All 302 (302) (DB) ** **(1889) ILR 13 Bom 449 (457) (FB)** ** **(1900) 4 Cal WN 369 (386) (FB)** ** **AIR 1956 SC 12 (14)** ** **AIR 1960 Andh Pra 155 (160)** ** AIR 1958 Assam 15 (15, 17) (DB) ** AIR 1955 Madh-B 81 (Prs 16, 17) (DB) ** AIR 1942 Cal 562 (565, 566) (DB) ** AIR 1947 Cal 68 (70) (DB) ** AIR 1918 Mad 1066 (1068) (DB) ** AIR 1939 Nag 220 (221) (DB) ** AIR 1921 Pat 318 (319).

[But see (1870) 5 Mad HCR 391 (401) (DB) ** (1868) 3 Mad HCR 297 (298) (DB).]

(2) The effect of Section 61 is that the Appellate Court may record a declaration as to deficiency of stamp and. impounding the document, forward it to the Collector. AIR 1953 Hyd. 14 (Pr 14) (DB).

[See (1884) Pun Re No. 175 p. 586 (588) (FB).]

(3) Fact that objection was raised in the trial Court does not entitle the party to raise the objection again in the appellate Court where the trial Court has overruled the objection and admitted the document in evidence. AIR 1936 Cal 556 (559) (DB) ** AIR 1957 Andh Pra 1022 (1022) ** AIR 1953 Pat 209 (Pr 5). (Section 36 comes into play irrespective of the fact whether the document was admitted with or without objection or after hearing or without hearing such objection.) ** AIR 1930 Cal 577 (577) (DB) ** AIR 1926 Mad 1148 (1149) ** AIR 1925 Mad 1215 (1215) (DB).

(4) Fact that objection was raised in the trial Court but no express decision was recorded thereon will not enable the objection to be raised again in appeal where the trial Court has admitted the document in evidence. AIR 1929 Mad 622 (623).

(5) Section applies not only where the document has been admitted in evidence by the trial Court but also where the document has been admitted by the first appellate Court and objection is taken in second appeal. 1890 Pun Re No. 139, p. 445 (446) ** (1882) 5 Mad 220 (221) (DB) ** AIR 1945 Nag 212 (213) ** (1901) 4 Oudh Cas 318 (319).

(6) Objection that a document not duly stamped was admitted in evidence cannot be a ground for reversing or varying a decree. (1887) 1 All 725 (726) (DB) ** (1875) 7 NWPH CR 124 (126) (DB) ** (1881) 5 Bom 621 (627) (DB) ** (1880) 5 Cal 311 (313) (DB) ** (1876) Suth WR 80 (80) (DB) ** (1882) 5 Mad 200 (221) (DB).

(7) Trial Court held instrument to be acknowledgment and not promissory note — Appellate Court is not precluded from treating instrument as promissory note. AIR 1934 Mad 500 (503).

Section 36 — Note 6 (contd.)

(8) Where a document was admitted in a suit filed when the Marwar Stamp Act, which had no provision analogous to Section 36 of the Indian Stamp Act, was in force but was repealed and substituted by the Indian Stamp Act when the appeal was filed it was held that the appellate Court had to apply Section 36 when considering the objection regarding admissibility of the document in the appellate Court. AIR 1954 Raj 173 (Pr 37) (DB).

(9-10) When the objection that the document is unstamped is not raised at the trial stage, further objection in appeal on that score is not tenable. (1970) 36 Cut LT 1099 (1101) ** AIR 1963 Andh Pra 442 = (1963) 1 Andh LT 213.

(11) Admissibility of document in evidence not specifically challenged in trial court cannot be called in question in second appeal on the ground that document has not been duly stamped. AIR 1972 Orissa 182 (185) = 37 Cut LT 839.

(12) Document admitted in evidence without objection — Admissibility not to be challenged in appeal and will be acted upon. AIR 1963 Pat 131 (138 and 139).

(13) Acknowledgment not duly stamped admitted in evidence by lower Court — Admission cannot be challenged at appellate stage. AIR 1965 Madh Pra 102 (107) = 1965 Jab LJ 1167.

(14) Instrument not duly stamped admitted in evidence by trial Court — Admission thereof cannot be questioned at any later stage of same suit or proceeding — Natural consequences of admission must also follow and appellate Court cannot say that it would not make use of it in appreciation of evidence or would not allow a decree to be passed thereon. 1967 Ker LT 640 (644).

(15) Promissory note with uncancelled stamp — Trial Court directing cancellation and decreeing suit after admitting pro-note — Appellate Court holding direction for cancellation as without jurisdiction and dismissing suit — Pronote once admitted in evidence cannot be called in question at appellate stage. (1963) 2 Andh WR 176 (178).

(16) Trial Court applying its mind to document and treating it as admissible — Matter cannot be questioned at appellate stage 1965 All LJ 295 (296).

(17) Where objection was taken before evidence was recorded in respect of an unstamped acknowledgment, but at the stage of evidence, the document was put to witness and exhibited, when no objection was raised to its admissibility, held, no objection to its admissibility can be taken in appeal. (1967) 69 Pun LR 45 (46).

(18) Expression 'any stage' covers stage of appeal — Document not duly stamped admitted by lower Court — Objection to admission of document cannot be allowed at appellate stage. AIR 1967 Punj 331 (336).

[See also AIR 1973 Bom 27 (32) = 74 Bom LR 174.]

7. Revision.— (1) Admission of an instrument not duly stamped in evidence cannot be questioned in revision. AIR 1944 Bom 235 (235) ** AIR 1957 Andh Pra 1022 (1022) ** AIR 1952 Kutch 13 (Pr 3) ** AIR 1952 Raj 129 (Pr. 5) (DB). (Document admitted in evidence — Objection promptly raised but not entertained — No revision lies) ** AIR 1927 Lah 876 (876) ** AIR 1923 Nag 284 (285).

(2) An order admitting a document on payment of duty and penalty is not revisable by the High Court. ILR (1952) 2 Raj 1010 (1012). (AIR 1952 Raj 129 **Followed.**)

(3) Where the trial Court holds that a kurippu was only intended to admit the correctness of the accounts between the parties to the suit and not to supply evidence of the debt and admits it in evidence overruling the contention that the kurippu is an acknowledgment which being unstamped is inadmissible in evidence, a revision does not lie from the order admitting the kurippu in evidence. 1961 Ker LT 151 (152).

(4) Admissibility of document not duly stamped — Question cannot be raised for first time at stage of revision. 1956 Ker LT 558.

(5) Document marked as exhibit and used by parties — Order admitting document in evidence not liable to be reviewed or revised. AIR 1963 All 376 (377) = 1962 All LJ 702.

(5A) Order holding promissory note to be duly stamped and as such admissible in evidence — Order should be challenged in revision immediately — If not challenged it cannot be reopened at a later stage. AIR 1972 Mys 344 (345) = (1972) 1 Mys LJ 487.

(6) Document admitted in evidence by lower Court — It is not open at appellate stage to review or revise order of lower Court and hold that document is inadmissible in evidence. (1968) 1 Andh WR 221 (234) ** (1973) 1 Cut WR 226.

8. Document not admissible even on payment of penalty.— (1) Words of this section are wide enough to include the case of an instrument which is not admissible in evidence even on payment of penalty. AIR 1931 Cal 480 (480) (DB) ** AIR 1952 All 996 (Pr 32) (DB). (Per Desai J.) ** AIR 1934 Mad 700 (700) ** AIR 1937 Oudh 19 (20).

(2) Where a suit is based on a promissory note and the note is not duly stamped, if the instrument is admitted in evidence, such admission cannot be subsequently called in question. AIR 1935 All 410 (411) ** **(1889) 13 Bom 449 (457) (FB) ** 1883 Pun Re No. 195, p. 586 (587) (FB)** ** AIR 1957 Andh Pra 1022 (1022) ** AIR 1934 Mad 383 (384) (DB) ** 1909 Upp Bur Rul 4th Qr Stamp 3.

[But see (1904) 2 Low Bur Rul 103 (104).]

(3) Insufficiently stamped promissory note is inadmissible for any purpose. AIR 1964 Assam 138 (140 and 141).

(4) Promissory note admitted in evidence cannot be called in question at any stage. AIR 1968 All 224 (229).

(5) Promissory note marked as exhibit after hearing objection and noted in List of Exhibits "marked with objection" — **Held,** document was not inadvertently admitted. 10 OJD 112 (116) = 34 Cut LT 805.

(6) Improperly or insufficiently stamped Promissory Note impounded and admitted in evidence under Section 36, by charging impounding fee — Still Section 36 comes into play and it is wrong to exclude such promissory note from evidence or to refuse permission under Section 118 of Negotiable Instruments Act. AIR 1967 Pat 276 (277).

Section 36 — Note 8 (contd.)

(7) Insufficiently stamped promissory note although inadmissible on that account used in evidence in ex parte trial and ex parte decree passed — Ex parte decree set aside — Defendant can object to admissibility of pronote at subsequent stage of trial — Section 36 has no application since the proceedings are not the same. AIR 1964 Andh Pra 188 (189).

(8) When a promissory note has on it the endorsements as required by Order 13, R. 4 Civil P. C. and Rule 79 of the Civil Rules of Practice, the admission of the document cannot be called in question at any stage of the proceeding on the ground that it has not been duly stamped. AIR 1962 Andh Pra 398 (399) = (1962) 1 Andh LT 247.

(9) Contracts for sea insurance not expressed in sea policies — Contracts, not enforceable in law — Instruments could not be validated by Sections 35, 36. (1969) 73 Cal WN 964 (979).

(10) Insufficiently stamped promissory notes governed by Hyderabad Stamp Act — Court in Mysore admitting in evidence by requiring payment of duty and penalty — Order not valid. (1962) 40 Mys LJ 876 (878 and 879).

(11) Unquestionability of insufficiently stamped documents following their admission in evidence is not attracted where Court specifically postpones decision on stamp quantum and later rejects the document as inadmissible. (1970) 2 Mys LJ 48 (49).

9. Unstamped partition decree.— (1) Section does not preclude objection being taken in appeal to the execution of an unstamped partition decree. **AIR 1942 Lah 260 (264) (FB)** ** AIR 1938 Mad 307 (311) (DB).

(2) Unstamped partition decree admitted in evidence on payment of duty and penalty — Its admissibility cannot be questioned in appeal. AIR 1947 Bom 96 (98).

(3) Partition suit — Decree to be valid must be drawn on stamp paper — Supply of stamp paper afterwards — Validity dates back from the date of decree — Proceedings before the supply of stamp paper would not be validated and they would be without jurisdiction. AIR 1972 Punj 408 (412 and 413) = 1972 Cur LJ 543.

(4) Decree for sale of an impartible property is an instrument of partition. AIR 1973 Delhi 154 (155).

10. Document rejected by lower Court — Power of appellate Court.— (1) The bar provided by S. 36 would not be applicable where an instrument has been rejected as inadmissible in evidence on account of a wrong order of the trial Court. Further Section 36 cannot be construed in such a manner as to override the provisions of Section 105 of the Civil Procedure Code. Appellate Court can examine real nature of document and admit the document after getting the irregularity cured. 1961 MPLJ 169 (171, 172).

(2) Instrument not duly stamped — Deficit duty and penalty not tendered in lower Court but tendered in appellate Court — Appellate Court will not order document to be received in evidence on payment of amount, **1883 All WN 93 (96, 97) (FB)** ** (1896) 20 Bom 791 (794) (DB) ** (1873) 10 Bom HCR 441 (443) (DB) ** (1879) 4 Cal 213 (215) (DB) ** (1867) 7 Suth WR 439 (439) (DB) ** (1902) 1 Low Bur Rul 84 (84).

(3) Deficit duty and penalty tendered in lower Courts but improperly refused by them — Amount may be received even in second appeal. **1897 Bom PJ 382 (FB).**

(4) Party not given opportunity to tender deficient duty and penalty in trial Court — Tender of amount in appellate Court is proper. AIR 1934 Lah 730 (732) (DB).

(5) Where the trial Court holds a document to be insufficiently stamped and requires a party to pay the deficiency and penalty the party is not bound to pay the amount under protest before he can challenge the order in appeal. 1898 Bom PJ 232 (DB).

11. Admission of secondary evidence.— (1) Section 36 does not apply to secondary evidence adduced in proof of the contents of document unstamped or insufficiently stamped. **AIR 1971 SC 1070 (1074) = (1971) 1 Civ APJ 448 (SC).** (AIR 1927 Rang 109 and AIR 1937 Mad 431, **Overruled** and AIR 1957 Andh Pra 784 (792). AIR 1958 Raj 72, AIR 1928 Pat 134, AIR 1951 Mad 326 impliedly **overruled.)** ** AIR 1955 Cal 561 (562) (DB) ** ILR (1951) 1 Raj 190 (193).

(2) Original document duly stamped but copy admitted in evidence — Subsequent objection as to want of due stamp on such copy will be precluded under this section. (1913) 11 All LJ 506 (510) (DB) ** AIR 1962 Punj 293 (297) = 64 Pun LR 203.

(3) Section 36 applies to a case where an instrument is actually produced and is admitted in evidence and not to a case where secondary evidence of an insufficiently stamped document is given without any objection. (1967) 2 Andh WR 444 (452).

(4) Mysore Stamp Act, Section 35 — Original document not properly stamped — Secondary evidence admitted — Admission cannot be called in question at later stage. (1963) 1 Mys LJ 156 (157).

(5) Unstamped document already impounded by Court lost while in custody of Court — In second appeal plaintiff not permitted to lead secondary evidence — **Held,** Section 36 would come to the help of plaintiff — Document once admitted in evidence could not be called in question. 1957 Raj LW 603 (604).

12. Arbitration proceedings.— (1) Instrument not duly stamped admitted in evidence by arbitrators — Such admission cannot be questioned subsequently in same proceedings. AIR 1924 Cal 794 (795) (DB) ** (1912) 39 Cal 669 (678). (Admission of unstamped document by arbitrators cannot be questioned in proceeding on an application to file award.)

(2) Effect of this section is to make the instrument available for the purposes of the proceedings as if it were duly stamped; so that even in a suit to set aside an award the award cannot be questioned on the ground that the reference to arbitration was not duly stamped. AIR 1921 Cal 613 (615, 616) (DB).

[But see AIR 1924 Cal 794 (795) (DB).]

37. Admission of improperly stamped instruments.—The °[State Government] may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description,† it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

[°] Substituted for "collecting Government" by A.L.O., 1950.

[†] The words imply that stamps other than prescribed have been used. For description of stamps prescribed, see Rr. 10 and 11 of the Indian Stamp Rules, 1925. Does the section cover use of court-fee stamp or postal stamps of sufficient value?

Section 37 — Note 1

(1) This is a remedial section. **AIR 1929 PC 279 (282).**

(2) The rules framed under the Jaipur Stamp Act continued to be in force under the first proviso to Section 6 of the Rajasthan Stamp Law (Adaptation) Act (7 of 1952) as having been framed under Section 75 of the Indian Stamp Act as adapted to Rajasthan. **AIR 1956 Raj 155 (158) (SB).**

(3) Instrument which is chargeable with the duty of one anna or half an anna or a bill of exchange or a promissory note can be certified to be duly stamped under this section. (1940) Bihar SM pp. 122, 123. (Instrument bearing stamp of sufficient amount but of improper description — Stamp left uncancelled — Collector cannot certify under this section that instrument is duly stamped.) ** (1931) Beng SM Vol I, p. 38 (Do.) ** (1911) 7 Nag LR 26 (29) (DB).

(4) If the instrument does not bear any stamp at all, the section will not apply. AIR 1938 Mad 307 (311) (DB).

(5) Expression 'improper description' does not include a description of stamp appropriate for purposes altogether outside the Stamp Act, but must be confined to a stamp which is used for the purpose of denoting the stamp duty chargeable on an instrument, but which is improper in a particular case, having regard to the Act and the Rules. **(1901) 23 All 213 (215) (SB).** (Disapproved on another point in AIR 1929 PC 279.)

[But see (1911) 7 Nag LR 26 (28) (DB).]

(6) If document bears stamp of improper description it is not "duly stamped" — Promissory note improperly stamped not admissible in evidence — Certificate under Section 37 cannot cure defect. AIR 1965 Raj 114 (114, 115) = 1965 Raj Lw 31.

(7) Where a promissory note bore a four anna revenue stamp of the Government of India instead of an impressed stamp of Madhya Bharat, it was held that the promissory note was an instrument bearing a stamp of sufficient amount but of improper description. AIR 1957 Madh B 181 (182).

(8) Promissory note engrossed upon non-adhesive stamp of more than required value — Validation by Collector under Section 37 — Certificate by Collector has no legal effect — Pronote held not admissible for any purpose. AIR 1963 Andh Pra 457 (459) = (1963) 2 Andh LT 93.

(9) Power of attorney bearing stamp of sufficient amount but of improper description — Irregularity in description can be cured by payment of duty and power would become valid from date of its execution — Suit cannot be thrown out on that ground. 1965 Cur LJ 485 (487) (Punj).

(10) In case of documents stamped before 1-4-1935, there was difference of opinion as to whether the case was of improper description where quarter anna postage stamps were used. **AIR 1932 Mad 390 (391) (FB).** (Improper description.) ** (1911) 7 Nag LR 26 (28) (DB). (Do.) ** AIR 1917 Bom 223 (223, 224) (DB). (Not improper description.)

(11) Revenue stamp surcharged with the words 'Court-fee' is within this Section. AIR **1929 PC 279 (282). (Disapproving 23 All 213 (215) (SB).)**

(12) Where there is no certificate that the instrument is duly stamped, but an endorsement by the Sub-collector appears on the instrument that penalty has been levied, it can be regarded as a certificate given under this Section. AIR 1920 Mad 910 (911).

(13) Certificate given by the Collector under this section that an instrument is duly stamped is final and a civil Court has no power to review the correctness of the Collector's action in giving the certificate. AIR 1926 Sind 211 (213) ** AIR 1957 Madh-B. 181 (182) ** (1911) 7 Nag LR 26 (29) (DB) ** AIR 1963 Assam 41 (45) (DB).

(14) Where the Collector has given the certificate the Chief Controlling Revenue authority cannot make a reference to the High Court under Section 57. **AIR 1926 Bom 51 (52) (SB) ** AIR 1918 All 181 (182) (SB).**

[But see (1911) 7 Nag LR 26 (29) (DB) ** AIR 1926 Sind 211 (213).]

(15) Party may, instead of moving the Collector under this section, pay the duty and penalty and have the instrument admitted under proviso (a), Section 35. **(1909) 19 Mad LJ 35 (41) (FB).**

(16) Omission to give an opportunity of moving the Collector to validate the instrument under this section on the part of the lower Court is a good ground of appeal against the dismissal of the suit. (1911) 7 Nag LR 26 (31) (DB).

(17) Concession provided for by Rule 18 read with this section does not apply to promissory note executed after 1-4-1935. AIR 1946 All 150 (151) (DB).

38. Instruments impounded, how dealt with.—(1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy* of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send† it in original to the Collector.

[1879—S. 35; 1869—Ss. 21, 22, 23; 1862—S. 17 (2); 1860—S. 13 (5).]

[*] For the purpose behind this provision, see Sections 43 and 61 infra.

[†] This can happen only if and when the document is impounded under Section 33 supra. Once a document is admitted in evidence, the section would not apply and action, if necessary, can be taken only under Section 61 infra.

Section 38 — Note 1

(*) Section lays down the procedure to be followed by the person impounding an instrument under Section 33 of the Act. AIR 1926 All 478 (478).

(2) It has been held that the jurisdiction to decide the question of stamp duty and penalty conferred by the proviso to Sec. 35 is only incidental to the reception of a document in evidence. If the party at whose instance the document was brought to the Court and who wanted it to have it as part of his evidence in the case wanted first an adjudication by the Collector as to the proper stamp duty and penalty leviable on it, the Court has only to accede to that request and not impose a decision which the party did not want. Even where the party has first invited the Court to decide the matter, if. before the Court pronounced its order. the party has resiled from it, the Court has only to follow the procedure prescribed in Sections 33 and 38 (2). AIR 1953 Trav-Co. 559 (Pr 6) (DB) ** (1967) 2 Andh WR 268 (270). (The Collector will have power to decide the nature of document impounded only if it is sent to him under Sub-section (2) of Section 38.)

(3) Instrument not duly stamped tendered in Court — Court cannot refuse to admit instrument in evidence and follow procedure in sub-section (2) of this section. AIR 1939 All 515 (516) (DB). (Under sub-section (1) of this section party must pay deficiency of stamp duty and penalty to Court and cannot of his own accord, deposit same in treasury.) ** (1907) 9 Bom LR 122 (123). (Party cannot, pending suit, ask Court to send document in original to Collector under sub-section (2), so as to submit opinion of Court to that of Collector under Section 40.)

(4) Bond executed outside British India presented in British Indian Court nearly 10 months after its execution — It cannot be stamped in British India under provisions of Section 18, nor can it be endorsed by Collector under Section 32 — Court must impound document under Proviso (a) to Section 35 and send it to collector under Section 38. AIR 1935 Nag 54 (55).

(5) Court admitting instrument in evidence upon payment of duty and penalty — It must send to Collector authenticated copy of instrument together with certificate in writing stating amount of duty and penalty levied and amount levied. AIR 1926 All 478 (478) ** **(1902) 25 Mad 752 (757) (SB)** ** (1896) 18 All 295 (298) ** 1970 BLJR 587 (589) ** 1966 Cur LJ 528 (529) (Punj). (The court has no power to make enquiry as to the value of property to determine the stamp duty.)

(6) It is the duty of impounding officer to send instrument to collector. It cannot itself determine deficiency and assess penalty and then send the order to collector for taking necessary action. 1969 All WR (HC) 734 (735) ** 1964 MPLJ 885. (Impounding Court has no power to direct collector regarding recovery of amount levied by it, while transmitting document under Section 38 (2) — Collector should himself decide nature of instrument sent to him and proper duty payable on it.)

(7) The District Registrars appointed as ex officio Assistant Registrars of joint stock companies under the Companies Act have been empowered to exercise the powers vested in the Collector under the provisions of the Act and have, therefore, jurisdiction to adjudicate on the proper stamp duty leviable on a document and demand payment. AIR 1959 Andh Pra 664 (666).

(8) Instrument cannot be admitted in evidence provisionally and then sent in original to the collector under sub-section (2) after the disposal of the suit. **(1885) 8 Mad 564 (565) (SB) ** AIR 1970 Madh Pra 74 (78) = 1969 MPLJ 827 (FB).** (When a document is sent to collector after admitting it, the collector acquires no jurisdiction. Section 38 (2) has no application to such case.)

(9) Instrument sent to Collector under sub-section (2) after disposal of suit — Collector holding under Section 40 that instrument is duly stamped — Court cannot alter his decision in suit. AIR 1942 Mad 381 (382). (1907 All WN 38, **Dissented from.)** ** ILR (1969) Andh Pra 593 (596).

(10) Original lost in transit — Collector held might equitably deal with copy as if it were original, making note on it of circumstances. (1933) Mad SM p. 43. (Citing BP 1473, 7th June. 1882.)

(11) If the order impounding the instrument is illegal, the Collector's jurisdiction is not properly exercised. AIR 1942 Lah 265 (266) ** 1906 Pun LR No. 131, p. 428 (432) (FB).

(12) Where a document is merely produced before Court and the petitioner does not seek

39. Collector's power to refund penalty paid under section 38, sub-section (1).—(1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, °[° ° °] refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

[1879—Section 36.]

[°] The words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue-authority" were omitted by the Decentralization Act, 1914 (IV of 1914), Section 2 and Schedule, Pt. I.

40. Collector's power to stamp instruments impounded.—(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable *[with

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Section 38 — Note 1 (contd.)

to get the document admitted in evidence the case is plainly one to which this sub-section applies so that the Court should send the document in original to the Collector. AIR 1959 Mys 172 (172).

(13) When a document is not sent to the Collector under this sub-section, there is no case pending before the Chief Controlling Revenue Authority and that Authority cannot state a case itself for the opinion of the High Court and cannot similarly be asked to state a case for the opinion of the High Court. AIR 1960 Cal 340 (344).

(14) If the instrument is chargeable, the fact that it mentions no value does not make it unchargeable. The court will decide the question, looking to the real nature of transaction. 1966 Raj LW 419 (423).

(15) Document produced in appeal — High Court assessing penalty — Order held, not warranted by provisions of Stamp Act. **AIR 1955 Hyd 17 (20) = ILR (1954) Hyd 562 (FB).**

Section 39 — Note 1

(1) Under Section 56 (1) the Board of Revenue can control the Collector's powers under this section only before it is actually executed but the action resulting from the exercise of such power by the Collector cannot be undone. **(1902) 25 Mad 752 (759) (SB).**

(2) Instruments executed prior to this Act — Procedure to obtain refund of penalty will be governed by present Act. **(1882) 5 Mad 394 (396) (SB).**

(3) Revision lies against interlocutory order of Munsif determining nature of document and admitting it in evidence under Section 35, and admitting it in evidence under Section 39 to Proviso (1) — Applicability of Section 39 to such a case held doubtful, as document was not in fact impounded. AIR 1957 J and K 49 (49).

(4) The final authority as to the levy of penalty is the Collector and not the court. 1966 Cur LJ 528 (529) (Punj).

Section 40 — Note 1

(1) It is the Collector alone who has the power to assess the penalty. though the Court or any other officer having the authority by law may impound the document. **AIR 1955 Hyd 17 (Pr 15) (FB)** ** (1967) 2 Andh WR 444 (447).

(2) Where a document is merely produced before the Court and the petitioner does not seek to get it admitted, the case is plainly one to which Section 38 (2) applies and the Court should send the document in original to the Collector. AIR 1959 Mys 172 (172) ** 1970 BLJR 587 (590) ** (1967) 2 Andh WR 268 (271). (Collector has power to decide the nature of document impounded when the court does not decide the question of stamp duty nor collects penalty under Section 38 (1) of the Act.) ** 1964 MPLJ 885 = 1964 Jab LJ 603 (605) (DB). (Impounding Court had no power to direct the Collector regarding recovery of amount levied by it, while transmitting the document under Section 38 (2).)

(3) There is no provision anywhere in the Stamp Act for cancellation of his order by the Collector, once it has been passed under Section 40 (1) (a) or (b). AIR 1957 Raj 211 (213) (DB).

(4) Under clause (b) of sub-section (1), the Collector is to levy the stamp duty or the deficient amount thereof plus a penalty. (1937) 20 Nag LJ 67 (68) ** (1933) Mad SM p. 45. ** AIR 1962 Cal 654 (656) = 66 Cal WN 483 (DB). (Endorsement on bill that third person will realise debt — Instrument held was assignment and not pay order — Instrument did not amount to acknowledgment of debt within Sch. 1, Art. 1 — Collector could recover deficient stamp duty under S. 40 (1) (b) pending suit.)

(5) Executant committed breach of Section 27 and withheld information with view to defraud State of its revenue — Collector held justified in levying full penalty chargeable and not merely sum of Rs. 5. (1937) 20 Nag LJ 67 (68) ** **AIR 1966 Punj 293 (296) = ILR (1966) 2 Punj 104 (FB).** (The executant of a document ought not to be subjected to the maximum penalty even if the document is found to be under-stamped, unless an attempt has been made to evade the payment of the proper stamp duty by trying to disguise the true nature of the document by drafting it in misleading terms.)

(6) Law does not contemplate the imposition of full penalty as a matter of course and where the Collector levies full penalty he should give reasons for doing so. 1945 Nag LJ 110 (110) ** **AIR 1970 Madh Pra 74 (79) = 1969 MPLJ 827 (FB).** (Powers of Collector under Section 40 of the Act are discretionary in respect of imposition of penalty.)

a duty not exceeding ten naye paise] only or a bill of exchange or promissory note, he shall adopt the following procedure:—

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be;

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees, or, if he thinks fit, †[an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-

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Section 40 — Note 1 (contd.)

(6A) Rajasthan Stamp Law (Adaptation) Act (1952) S. 47A — Section 47-A is a special provision under Section 2 of the Rajasthan Act, this provision must override the general provisions in Section 40 of Indian Stamp Act. Therefore when insufficiently stamped document is forwarded by Registering Officer to Collector, the latter has no power to levy any penalty. 1973 Weekly LN 1 (3) (Raj).

(7) Instrument contravening Section 13 or Section 14 — It will be deemed to be unstamped under Section 15 and can be validated on payment of proper duty and penalty under sub-section (1) (b) of this section. **(1888) 11 Mad 40 (41) (SB).**

(8) Duty chargeable on an unstamped or insufficiently stamped document should be calculated with reference to the law in force at the time of its execution but the penalty leviable is determined by the Act in force at the time when the question arises. **(1882) 5 Mad 394 (396) (SB).**

(9) In deed of gift referred to Collector for necessary action, value of property dealt with not set forth — Collector held could not value property to assess duty payable. **AIR 1922 All 82 (83) (FB).** (If value of property is intentionally omitted with view to defraud Government, prosecution would lie under Section 64.)

[See also AIR 1960 Pat 210 (211) (DB). (Deed of settlement — Words "as set forth in such settlement" in Sch. 1 Article 58 refer back to word 'value' and not to 'property settled' — Proceedings under Section 40 — Collector has no jurisdiction to enquire as to value of properties covered by deed — Duty of Collector.)]

(10) Where a Collector considering an instrument to be insufficiently stamped, levies the deficient stamp duty and penalty, but subsequently before endorsing his certificate on the instrument comes to know that the instrument is sufficiently stamped he may certify that the instrument is fully stamped and refund the sums collected under his erroneous orders, as sums levied by mistake. (1933) Mad SM p. 41.

(11) Instrument insufficiently stamped, but amount of duty and penalty levied not in accordance with law — Collector or his successor in office may, provided that certificate on instrument has not been endorsed, levy duty and penalty in accordance with law and refund sum, if any, collected in excess of correct duty and penalty levied. (1933) Mad SM page 41.

(12) Language of this section is imperative. Proceedings under this section therefore, have to be taken in spite of a previous successful prosecution of the executant of the deed for evasion of stamp duty. 1933 Mad SM p. 41 ** AIR 1946 Mad 437 (441).

(13) Where after the original document has been taken away after registration, the Registration Inspector, after scrutinizing the copy of the document in the register of the Registrar, reports to the Tahsildar that the document was improperly stamped and the Tahsildar forwards the papers to the Collector for guidance, the original document never comes to be impounded and, therefore, Section 40 had no application. **AIR 1958 Raj 291 (292) (SB).**

(14) Section 40 applies only when an instrument is impounded under Section 33 or sent to Collector under Section 38. It does not apply to duty on transfer of property. Hence an instrument cannot be subjected to imposition of penalty under Section 40 on the ground that the duty on transfer of property under Delhi Municipal Corporation Act is either not paid or is insufficiently paid. AIR 1972 Delhi 131 (135) = ILR (1972) 1 Delhi 593 (DB).

(15) Court deciding that document should be stamped as sale-deed and not merely as agreement to sell and sending document to Collector under Section 38 (2) — Collector giving his opinion under Section 40 (1) (a) to the effect that instrument was duly stamped and was not chargeable with duty and giving certificate to that effect — **Held**, certificate was final and civil Court could not take a different view on the question. ILR (1969) Andh 593 (596).

(16) The Collector is not bound to give a notice and is authorised to impose the penalty without calling upon the party to show cause. But he has power to review his previous decision after hearing the petitioner and reduce the penalty imposed by him. 1954 All LJ 520 (522).

(17) Collector certifying under Cl. (a) of sub-section (1) that instrument in question is

section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

[1879—S. 37; 1969—Ss. 24, 28; 1862—Ss. 15, 22; 1860—S. 13.]

[°] Substituted for the words "with a duty of one anna or half an anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 6 (1-10-1958).

[†] Inserted, ibid, 1906 (IV of 1906), Section 3.

STATE AMENDMENTS

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the 1st day of April, 1959, in sub-section (1) of Section 40, for the words "a duty of ten paise", substitute the words, figures, letters and brackets "a duty of twenty paise or half an anna only or a mortgage of crop (Article 36 (a) of Schedule I-A) chargeable under clause (aa) or (bb) of section 3 with a duty of forty paise".—Andh. Pra. Acts VI of 1922, S. 12 (25-4-1922;); XVI of 1943, Section 4 (1-10-1943); XIX of 1959, S. 8 (1-4-1959); X of 1967, Section 3 (3) (20-10-1967).

Madhya Pradesh:

In its application to the whole State of Madhya Pradesh on and from the first day of November, 1957, in sub-section (1) of Section 40, for the words "an instrument chargeable with a duty of one anna or half an anna only or", substitute the words "a receipt".—C. P. and Berar Act V of 1948, Section 2 (30-1-1948) read with M. P. Act XVIII of 1957, Section 3 (2).

Section 40 — Note 1 (contd.)

not chargeable with stamp duty or is duly stamped. Correctness or validity of such certificate cannot be questioned by Chief Controlling Revenue authority or by any other authority. **(1902) 25 Mad 752 (756, 759) (SB)** ** AIR 1935 Nag 54 (55) = 31 Nag LR 162 ** **AIR 1941 Lah 65 (66) (SB)** ** **1906 Pun LR No. 151, p. 428 (432) (FB)** ** 1887 All WN 21 (21) (DB) ** 1970 All WR (HC) 138 (140).

(17A) Power of interference by the Chief Controlling Revenue authority under Section 56 (1) can only be exercised before the Collector has endorsed the certificate on the instrument. **(1902) 25 Mad 752 (760) (SB).** (Not after Collector has issued certificate.) ** **AIR 1932 Cal 736 (737) (SB).**

(17B) Inspector of Stamp and Registration acting as Collector under Section 40 of the Act or the Board of Revenue as the Chief Controlling Revenue Authority acting under Section 56 (1) thereof are not barred on the principle of res judicata and stare decisis from examining the question of proper stamp duty payable on the document for the reason that Collector had acting under Sections 31/32 of the Act endorsed certain other documents on which duty had been paid as properly stamped. **AIR 1972 All 519 (521, 522) = 1972 All LJ 632 (640) (SB).**

(18) Question of stamp cannot be reopened by a reference to the High Court under Section 57: **(1902) 25 Mad 752 (756) (SB).** (Per Special Bench; White C. J. contra.) ** **(1940) 15 Luck 318 (320) (FB)** ** **AIR 1938 Oudh 226 (227) (SB).**

(19) Document insufficiently stamped — Deficit duty levied by Collector — Reference to High Court is not competent. **AIR 1918 All 181 (182) (SB).**

(20) Conclusive presumption under sub-section (1) (a) does not apply where the Collector endorses the certificate on instruments which are excepted under this section. AIR 1926 All 359 (359) = 48 All 332.

[But see (1881) 3 All 115 (117) (DB) ** 1933 Mad SM p. 42 (42).]

(21) Collector treating promissory note as bond and issuing certificate on that basis — Decision of Collector not conclusive as he acted without jurisdiction. 1963 Ker LJ 223 (224).

(22) A civil court has jurisdiction to entertain a suit for refund of stamp duty and penalty illegally realised by the Collector from the plaintiff under the Stamp Act. AIR 1959 Orissa 144 (148) (DB).

(23) The District Judge under Section 33 of the Act has no jurisdiction to determine the proper stamp duty or assess the penalty. He should send the instrument to the Collector for necessary action. 1969 All WR (HC) 734 (735, 736).

(24) Until the Collector certifies by endorsement the required payment under Section 42 (2), the Chief Controlling Revenue authority has full scope to interpose its control under Section 56 (1) at the instance of the party concerned or otherwise and require the Collector to exercise his power as it directs. **(1902) 25 Mad 752 (760, 761) (SB)** ** (1933) 34 Pun LR 630 (631) ** (1963) 1 Mys LJ 174 (178) (DB). (Order made by Deputy Commissioner under Section 40 (1) is revisable by Chief Controlling Revenue Authority under Section 56 (1).)

(25) Before the Collector has occasion to give any certificate under Section 42 an order passed by the Collector under sub-section (1) (b) can be interfered with by the Chief Controlling Revenue authority directly under Section 56 or indirectly, by making a reference to the High Court under Section 57. **(1902) 25 Mad 752 (760, 761) (SB)** ** **AIR 1932 Lah 495 (496) (SB)** ** **AIR 1936 Lah 449 (450) (SB)** [See however AIR 1935 Nag 54 (55)].

(26) If the Collector thinks that his order is not justified he can amend his previous order and reduce the amount of the penalty that he has imposed. 1954 All LJ 520 (522).

Punjab: Haryana: Chandigarh:

In its application to the whole States of Punjab and Haryana and Union territory of Chandigarh, in sub-section (1) of Section 40, after the words "promissory note", insert the words "or acknowledgment or delivery order".—East Punj. Act XXVII of 1949, Section 6 (with effect from 1-4-1950) read with Punj. Act V of 1957, Section 4; Act XXXI of 1966, Section 89.

Tamil Nadu:

In its application to the whole State of Tamil Nadu, in sub-sec. (1) of Section 40 for the words "a duty of one anna or half an anna only", substitute the words, figures, letter and brackets "a duty of ten naye paise, one anna or half an anna or a mortgage of crop (Article 41 (a) of Schedule I) chargeable under section 3 with a duty of twenty-five naye paise".—Mad. Acts VI of 1922, Section 12 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIV of 1958, Section 12 (1-10-1958); VIII of 1962, Section 4 (3) (10-9-1962).

Uttar Pradesh:

In its application to the whole State of Uttar Pradesh, in Section 40, sub-section (1)—

(i) for the words "an instrument chargeable with a duty of one anna or half an anna only", substitute the words "a receipt".—U. P. Act VII of 1941, Section 4 (26-6-1941).

(ii) in clause (b) of the same sub-section delete the semicolon after the words "a penalty of five rupees" and insert a comma between the words "fit" and "an amount".—U. P. Act XVIII of 1938, Section 4 (13-2-1939).

Section 40 — Note 1 (contd.)
(Collector is entitled to correct a mere clerical error in his order.)

(27) The duty of the Collector under Section 40 is a judicial one and the fact that a hierarchy of tribunals is provided for emphasises that fact. Though Section 40 does not in terms say that the opinion of the Collector should be expressed and implemented, after giving notice to parties, the principles of natural justice require that it should be done so. **AIR 1957 Andh Pra 237 (242) (FB).** (Per Subba Rao C. J.. and Krishna Rao J.)

(28) If order of the Collector is wrong, it is subject to revision and if it is contrary to law, it is subject to the jurisdiction of the High Court under Article 226 of the Constitution. **AIR 1957 Andh Pra 237 (242) (FB).** (Per Bhimashankaran J.)

(29) Document insufficiently stamped — Person not originally bound to bear stamp duty wishing to have document admitted in evidence in Court — He cannot be compelled to pay duty — Payment is left to his choice. **AIR 1940 Lah 315 (319) (SB) ** AIR 1957 Andh Pra 237 (241) (FB).** (30 All 271 and AIR 1956 Mad 454, **Dissented from.)**

[See however AIR 1956 Mad 454 (458) (DB). (30 All 271 and AIR 1940 Lah 315, **Dissented from.)**]

[But see AIR 1955 Mad 425 (429) ** (1908) 30 All 271 (272) (DB).]

(30) The only liability to pay stamp duty in the case of an instrument of transfer is upon the executant. If he fails to do so. the revenue authorities can proceed against him. If the document is brought before the revenue authorities, the revenue authorities will impound it, but having impounded it, the only right given to them to proceed for the recovery of the duty is against the person who was liable to pay the duty. **AIR 1955 Bom 79 (Pr 3) (SB).** (If a company registers an instrument of transfer of shares which is not duly stamped, it would be doing something which is not lawful. But there is no provision in the Companies Act or. in the Stamp Act, which would make the company liable for payment of the proper stamp duty.)

(31) Where several persons jointly execute a document, the Collector can proceed under Sections 40 and 48, against any of them, as they are all jointly and severally liable. He is not bound to collect the pro rata shares from each. AIR 1956 Mad 454 (458) (DB) ** AIR 1972 Mad 268 (269) = (1972) 85 Mad LW 274 ** **AIR 1970 Madh Pra 74 (79) = 1969 MPLJ 827 (FB).**

(32) The parties to a partition deed are liable to pay stamp duty in proportion to their respective shares in the whole property partitioned unless there is an agreement to the contrary and they are the persons from whom the duty and penalty are due. **AIR 1957 Andh Pra 237 (241) (FB).** (AIR 1956 Mad 454 and 30 All 271, **Dissented from.)**

(33) Unstamped receipts and promissory notes entered on page of account book containing other entries — Page or portion of book containing entry can be detached for retention, though it may involve taking into possession other side of page not requiring any stamp — If note book contains only few entries whole notebook may be retained and party may be given certified copies of other entries if required. (1933) Mad SM p. 45. (Citing B. Ps. 6R — Press (Mis). 9th October 1930; 200R, Mis 12th August 1930.)

(34) The District Registrars appointed as ex officio Assistant Registrars of Joint Stock Companies under the Companies Act, by the Board of Revenue pursuant to the powers delegated to it by the State Government have been empowered to exercise powers of Collector under the Act and to adjudicate on the proper stamp duty. AIR 1959 Andh Pra 664 (666) = 1959 Andh LT 173 (DB).

(35) Document tendered in evidence — Order of Court in regard to stamp duty and penalty — Party aggrieved should first exhaust remedies under Sections 40, 56, 57 be-

41. Instruments unduly stamped by accident.—If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable *[with a duty not exceeding ten naye paise] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

[1879—S. 38; 1869—Ss. 24 (b), 28; 1862—S. 15 (1); 1860—S. 13 (1).]

[*] Substituted for the words "with a duty of one anna or half an anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 6 (1-10-1958).

STATE AMENDMENTS

Andhra Pradesh:

In its application to the whole State of Andhra Pradesh on and from the first day of April 1959, in Section 41, for the words "a duty of ten paise", substitute the words, figures, letters and brackets "a duty of twenty paise only or a mortgage of crop (Article 36 (a) of Schedule I-A) chargeable under clause (aa) or (bb) of section 3 with a duty of forty paise".—Andh. Pra. Acts VI of 1922, Section 12 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIX of 1959, Section 8; X of 1967, Section 3 (3) (20-10-1967).

Madhya Pradesh:

In its application to the whole State of Madhya Pradesh on and from the first day of November, 1957, in Section 41, for the words "an instrument chargeable with a duty of one anna or half an anna only or", substitute the words "a receipt".—C. P. and Berar Act V of 1948, Section 2 (30-1-1948) read with M. P. Act XVIII of 1957, Section 3 (2).

Punjab: Haryana: Chandigarh:

In its application to the States of Punjab and Haryana and Union territory of Chandigarh, in Section 41, after the words "promissory note", insert the words "or acknowledgment or delivery order".—East Punj. Act XXVII of 1949, Section 6 (with effect from 1-4-1950) read with Punj. Act V of 1957, Section 4; Act XXXI of 1966, Section 89 (1-11-1966).

Section 40 — Note 1 (contd.)

fore filing revision. ILR (1962) Cut 121 (124) (DB).

Notice to executant

(36) Section 40 does not specifically provide for notice to the executant of the document. But it is expected that the Collector, before he decides whether the instrument is properly stamped or not, would give notice to the executant so that he may put forward his point of view before the Collector, in case he desires to do so. AIR 1957 Raj 211 (212) (DB).

(37) The principles of natural justice require that a notice should be given to the parties concerned. **AIR 1957 Andh Pra 237 (242) (FB).**

Section 41 — Note 1

(1) Sale certificate not duly stamped — Purchaser may apply under this section to Collector asking for mistake to be rectified — Court issuing such certificate cannot allow it to be stamped after payment of deficient duty. **AIR 1930 Bom 392 (394) (FB).**

(2) Partition deed — Duty not paid by co-sharer — Duty and penalty recovered by proceedings in Court from one co-sharer — He cannot claim proportionate amount from other co-sharer. AIR 1946 Mad 50 (50).

(3) Where a bond is produced before the Collector more than one year after the date of its execution along with a petition purporting to be under Sections 31 and 32. this section has no application and the Collector has jurisdiction to act under Section 42 read with Sections 33 and 40. **AIR 1955 Mad 652 (653) (FB).**

(4) The section applies to a case where a deed or instrument is produced by any person of his own motion and not in response to the notice by the sub-divisional officer. 1966 All LJ 514 (517).

(5) The nature of function in imposing penalty being quasi judicial, the Collector should impose it after giving opportunity to the petitioner to be heard. 1970 All WR (HC) 138 (140).

(6) An endorsement of due stamping on a hundi made by the Collector under Sec. 32 (3) is without authority, of law in view of proviso (c) to Section 32 (3) and as such the hundi cannot be deemed to be duly stamped so as to be admissible in evidence. **AIR 1971 All 280 (285) = 1971 All LJ 202 (FB).**

Tamil Nadu:

In its application to the whole State of Tamil Nadu, in Section 41, for the words "a duty of ten naye paise", substitute the words, figures, letter and brackets "a duty of twenty paise or a mortgage of crop (Article 41 (a) of Schedule I) chargeable under section 3 with a duty of forty paise".—Mad. Acts VI of 1922, Section 12 (25-4-1922); XVI of 1943, Section 4 (1-10-1943); XIV of 1958, Section 12 (1-10-1958); VIII of 1962, Section 4 (3) (10-9-1962).

Uttar Pradesh:

In its application to the State of Uttar Pradesh, in Section 41, for the words 'ten naye paise', substitute the words 'twenty naye paise'.—U. P. Act XXV of 1962, Section 7 (1-1-1963).

42. Endorsement of instruments on which duty has been paid under section 35, 40 or 41.—(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon* that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

Section 42 — Note 1

(1) Section does not apply where an instrument has been held to be duly stamped and admitted in evidence. AIR 1932 Mad 765 (767).

(2) Unstamped receipt cannot, on payment of the penalty, be certified by indorsement under sub-section (1). **(1902) 24 All 374 (376) (SB).**

(3) Partition decree not originally duly stamped certified under sub-section (1) — Proceedings thereunder before date of certificate held not validated by certificate. AIR 1938 Mad 307 (311) (DB) ** AIR 1946 Mad 437 (440) (DB).

(4) Certificate by Collector under this section is conclusive as regards question of stamp duty — Civil Court cannot go behind it. AIR 1941 Lah 65 (66) ** AIR 1929 Nag 272 (272).

(5) After the Collector has endorsed the certificate under this Section, the Chief Controlling Revenue Authority cannot exercise its powers of control under Section 56 (1) nor can it refer the case to the High Court under Section 57. **(1902) 25 Mad 752 (758, 759, 766) (SB).** (Per Bhashyam Ayyangar J., Moore J. contra.) ** **AIR 1918 All 181 (182) (FB)** ** **AIR 1958 All 417 (419) (SB).**

(6) Where a Sub-Registrar makes a reference and a certificate under this section is issued, the matter is concluded so far as he is concerned and he has to register the document. The word "may" in this context has the same force "as shall". **AIR 1957 Raj 211** (213). (If the executive authorities are dissatisfied with the order of the Collector their remedy is by way of a revision to the Chief Controlling Revenue Authority under Section 56 (1) of the Act.)

(7) Collector requiring payment of duty and penalty not paid — Chief Controlling Revenue Authority can interfere and refer case to High Court. **AIR 1932 Lah 495 (496) (SB)** ** **(1902) 25 Mad 752 (760) (SB).**

(8) Civil Court before which the instrument is brought. is not, in the absence of a certificate, bound by the opinion of the Collector as regards stamp duty and may admit the instrument as duly stamped if it is duly stamped. **(1898) 22 Bom 632 (635) (FB).**

(9) Collector certifying document as duly stamped in case to which provisions as to certification do not apply — Certificate is conclusive. (1881) 3 All 115 (117) (DB).
[But see AIR 1926 All 359 (359).]

(10) Under sub-section (2), the instrument certified cannot be refused in evidence if it subsequently comes before a civil Court on the ground of its being not duly stamped. **AIR 1941 Lah 65 (67) (SB).** (Certificate is binding on Collector also.)

(11) In the case of a cadjan document, the certificate required by this section is to be endorsed on a certified copy of the document on plain paper, which should be attached to the cadjan document. (1933) Mad SM p. 46.

(b) nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.†

[1879—S. 39; 1869—Ss. 20, 25; 1862—S. 16; 1860—S. 13 (5).]

[*] This clearly indicates that the section applies only where the original document is forthcoming and does not cover copies of documents lost or misplaced.

[†] Now see Civil Procedure Code (1908), O. XIII, R. 9.

43. Prosecution for offence against Stamp law.—The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of proper duty.

[1879—S. 40; 1869—Ss. 22, 24.]

Section 43 — Note 1

(1) Object of this section is to guard against frivolous or indiscriminate prosecutions. AIR 1926 All 389 (390) (DB) ** (1884) 7 Mad 537 (538) (DB).

(2) Opportunity must be given to a party to pay the penalty before the Collector exercises his discretion of sanctioning a prosecution under Section 70. (1883) 7 Bom 82 (83) (DB) ** (1882) 8 Cal 259 (261) (DB).

(3) No opportunity given to accused to pay duty and penalty — Accused free from any criminal intent — His conviction will be set aside. AIR 1921 Pat 233 (234). (Unstamped receipt.) ** (1882) 8 Cal 259 (261) (DB).

(4) Instruments in respect of which the parties are required to pay deficit duty and penalty under this chapter but have failed or refused to pay the same are not covered by the proviso and the parties are liable to be prosecuted whether there is an intention to evade duty or not, unless there are special reasons for indulgent treatment. (1933) Mad SM p. 46 (46).

(5) Instrument which is duly stamped but which has failed to state the facts affecting the amount of stamp duty fully and truly is outside the scope of the proviso and no inquiry into the intention of the party is necessary before sanctioning his prosecution. (1889) 12 Mad 231 (233) (DB).

(6) Proviso is mandatory in its terms and before a prosecution is sanctioned in respect of an instrument covered by this section the Collector must come to the clear finding that there exists an intention to evade the payment of proper duty. AIR 1921 Pat 233 (234) ** (1928) 29 Cri LJ 397 (399) (Pat).

(7) Collector is not required to make a formal inquiry or to record a proceeding when he grants a sanction for prosecution. (1884) 7 Mad 537 (538) (DB). (Collector giving written sanction for prosecution — It may be presumed that he has governed his decision by proviso to this section.)

(8) Sanction for prosecution must be in writing. AIR 1933 Lah 950 (959).

(9) Magistrate trying the offence is not bound by the opinion formed by the Collector at the time of sanctioning the prosecution and though such an intention may not be ingredient of the offence, the Magistrate should consider the question of the intention and hear the statement of the accused and any evidence which he may offer in reference to it, in order to decide whether any or what penalty should be levied. **(1877) 14 Cal 399 (403) (FB).**

(10) Unstamped roka contained reference to fact that it was not stamped and also agreement on part of executant that if litigation became necessary, he would pay whatever expenses might be incurred in stamping document — Instrument held showed on face of it intention of parties to evade payment of duty. (1875) 24 Suth WR 88 (89) (DB).

(11) Under instalment bond, loan of Rs. 30,000 payable by instalments extending over 21 years — Instrument carried interest and sum thus secured by bond amounted to Rs. 76,000 — Bond stamped for Rs. 30.000 under advice of Sub-Registrar: **Held,** that there was no intention to evade payment of proper duty. (1880) 5 Cal 311 (313) (DB).

(12) Certain persons acted as arbitrators in dispute and gave award on unstamped paper — Award filed in Civil Court and impounded and sent to Collector who prosecuted and sentenced arbitrators to pay fine — Arbitrators held could not have intention to evade stamp duty. (1882) 8 Cal 259 (262) (DB).

(13) A mortgaged his property to B who assigned, for consideration his mortgagee rights to C by endorsement not stamped or registered — C sued upon mortgage but suit dismissed by Court on ground that endorsement being not stamped could not pass any right to C — B and C referred their dispute to arbitrators who gave award to effect that C should return deed to B and B should pay money to C — C filed suit to enforce award contended to be vitiated by intention to evade payment of duty: **Held,** that unless contrary was proved submission by B and C of their dispute to arbitrators could not be said to have been done with intention to evade payment of stamp duty. (1882) 4 All 462 (473) (DB).

44. Persons paying duty or penalty may recover same in certain cases.— (1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.°

(2) For the purpose of such recovery, any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

[1879—*S.* 41.]

[°] The object of the section is to induce persons to produce or cause to be produced documents which are liable to stamp duty but are not properly stamped.

Section 44 — Note 1

(1) Duty and penalty in respect of instrument not duly stamped recovered from person not liable for proper stamping of instrument — Section gives right to person paying duty and penalty to recover same from person guilty of default in regard to proper stamping of instrument. 1939 Nag LJ 364 (365) ** AIR 1959 Andh Pra 105 (106) (DB) ** AIR 1955 Mad 425 (429) ** (1908) 30 All 271 (272, 273) (DB). (Dissented from in AIR 1940 Lah 315 (SB) regarding power of Collector to recover the penalty and duty from person not liable for the same compulsorily.) ** (1968) 70 Pun LR 853 (857).

(2) Section is not intended to enable one of several persons, who were under a common duty to pay the proper stamp duty, to claim from the others contribution in respect of the duty and penalty which he has been compelled to pay owing to their common default.. AIR 1936 All 151 (152). (Suit for contribution is not maintainable.) ** AIR 1916 Mad 672 (673) (DB). (Do.) ** AIR 1959 Andh Pra 105 (106) (DB) ** AIR 1955 Bom 368 (368) (DB). (Where a co-sharer who paid the stamp-duty and penalty over certain instruments claimed from other co-sharers who under the provisions of Section 29. were bound to bear the expenses attributable to their shares: **Held**, that Section 44 (1) will not apply.) ** AIR 1946 Mad 50 (50).

(3) Person through whose default duty and penalty required to be paid party to suit or proceedings in which duty and penalty are paid by opposite party — Amount can be recovered from person in default, by including amount in any order as to costs passed against him — If amount is not so included in order as to costs, then no fresh suit is maintainable to recover duty and penalty paid. AIR 1937 Mad 763 (764) ** AIR 1959 Andh Pra 601 (603. 604). (Order passed for inclusion of amount of penalty is set aside on objection by judgment-debtor — Suit for recovery of penalty — Suit is barred on principle of res judicata.) ** AIR 1957 Madh B 185 (186) ** AIR 1936 All 151 (152) ** AIR 1927 All 654 (654).

(4) It is only against the party who is liable to bear the expenses of stamping that the amount of stamp duty and penalty can be awarded as costs under sub-section (3), and not against any other party to the suit or proceeding. (1891) Bom PJ 12 (DB).

(5) Sub-section (3) does not give any independent right, apart from the right under sub-section (1), to any party. Both the sub-sections have to be read together. The expression 'such amount' in sub-section (3) conveys the idea that it has reference to and is correlated to the amount recoverable under sub-sec. (1). AIR 1959 Andh Pra 105 (106) (DB).

(6) Section does not enable the plaintiff to recover from the defendant the duty and penalty paid in respect of an instrument in respect of which the defendant was to bear the expenses of the stamp, when the duty and penalty are illegally levied from the plaintiff. AIR 1924 Oudh 110 (110).

(7) The executants, after paying the stamp duty and penalty in full on documents which have been produced or have come before the Court and been impounded and sent to the Collector, can apply to the Court, under Section 44 (3) to provide for the stamp duty and penalty levied from them under Sections 40 and 48 in the costs, against the persons who are liable to pay same under an agreement and can get appropriate relief, if entitled thereto. AIR 1956 Mad 454 (458) (DB).

(8) Where the entire stamp duty and penalty imposed on a partition deed is paid by one sharer he can file a suit for contribution by virtue of Section 44 against other sharers by virtue of Section 29. AIR 1972 Mad 268 (269) = 85 Mad LW 274.

45. Power to revenue authority to refund penalty or excess duty in certain cases.—(1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority* may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue-authority*, a stamp duty in excess of that which is legally chargeable has been charged and paid under section 35 or 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

[1879—S. 42; 1869—S. 42; 1862—S. 15 (6); 1860—S. 13 (3).]

[*] For definition, see the General Clauses Act, 1897 (X of 1897), S. 3 (10).

STATE AMENDMENTS

Gujarat:

In its application to the State of Gujarat, in Section 45, in sub-section (2), for the words "under section 35", substitute the words "under section 32, section 35".—Guj. Act XIX of 1965, Section 9 (18-6-1965).

Pondicherry:

In its application to the Union territory of Pondicherry, in Section 45, in sub-section (2), for the words "within three months of the order charging the same", substitute the words "within six months from the date of payment".—Pondi. Act XXI of 1970, Section 7 (5-8-1970).

Tamil Nadu:

Same as in Pondicherry—T. N. Act XXIV of 1967, Section 7 (22-4-1968).

46. Non-liability for loss of instruments sent under section 38.—(1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

[1879—S. 43; 1869—S. 25; 1862—S. 21; 1860—S. 13 (8).]

47. Power of payer to stamp bills and promissory notes received by him unstamped.—When any bill of exchange *[or promissory note] chargeable †[with a

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Section 45 — Note 1

(1) Procedure to obtain a refund laid down by this section will apply even in case of documents executed prior to the coming into force of this Act. **(1882) 5 Mad 394 (396) (SB).** (Case under the Act of 1879 — Per Kerman J.)

(2) Party on whom the penalty has been imposed has the only remedy of applying for refund under this section. (1880) 5 Cal 311 (314) (DB).

(3) Provincial Government can in the exercise of its general powers grant a refund either of duty or penalty in any given case. (1942) CPSM p. 120.

(4) Section 61 of the Act has no application when refund of the excess duty or penalty is asked for by the person tendering the document in evidence. This section provides the only remedy to the aggrieved party. AIR 1951 Pat 625 (Pr 3) = 30 Pat 960 (DB).

(5) Deed of settlement stamped in good faith as trust deed admitted in evidence on payment of additional duty and penalty under Section 35 — Application for refund of penalty under this section — Refund ordered. (1924) 2 Pat LR (Cri) 18 (20).

(6) Chief Controlling Revenue-authority when ordering a refund of excess stamp duty shall at the same time order the payment to the applicant of a sum equal to the court-fees paid on his application for the refund. 1931 Beng SM Vol I p. 42 **(1933) Mad SM p. 48 ** (1940) Bihar SM p. 127 ** 1934 Punjab SM Part I-B p. 14.

(7) A Civil Court has jurisdiction to entertain a suit for refund of stamp duty and penalty illegally realised by the Collector from the plaintiff under the Stamp Act. AIR 1959 Orissa 144 (145, 146) = ILR (1959) Cut 16 (DB).

(8) Remedy provided by Section is not as efficacious as one provided by Section 115, Civil P. C. AIR 1969 Raj 313 (314) = 1969 Raj LW 248.

Section 47 — Note 1

(1) Section is an enabling one. (1895) 19 Bom 635 (639) (DB).

(2) Section cannot be interpreted as permitting the bill being stamped by an intermediate holder of the bill who is neither the drawer nor the drawee in order to validate such bill and thereby enable himself or a subsequent holder of the bill to sue the drawer. AIR 1925 Sind 241 (241) (DB) ** AIR 1925 Bom 520 (520) ** (1890) 6 TLR 292 (292).

duty not exceeding ten naye paise] is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill ‡[or note], and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill ‡[or note] shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill ‡[or note].

[1879—S. 44; 1869—S. 26; 1862—S. 24.]

[°] Substituted for "promissory note or cheque" by the Indian Finance Act, 1927 (V of 1927), Section 5.

[†] Substituted for the words "with the duty of one anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 7 (1-10-1958).

[‡] Substituted for "note or cheque" by Act V of 1927, Section 5.

STATE AMENDMENTS

Section 47-A:

Andhra Pradesh:

After Section 47, insert the following:—

"**47-A. Instruments of conveyance, etc., how to be dealt with.**—(1) Where the registering officer appointed under the Registration Act, 1908, while registering any instrument of conveyance, exchange, gift, partition or settlement, has reason to believe that the market value of the property which is the subject-matter of such instrument has not been truly set forth in the instrument, he may, after registering such instrument, refer the matter to the Collector for determination of the market value of such property and the proper duty payable thereon.

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties opportunity of making their representation and after holding an inquiry in such manner as may be prescribed by rules made under this Act, determine the market value of the property which is the subject-matter of such instrument and the duty as aforesaid. The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty.

(3) The Collector may suo motu within two years from the date of registration of such instrument, not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject-matter of such instrument and the duty payable thereon and if, after such examination, he has reason to believe that the market value of such property has not been truly set forth, in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty:

Provided that nothing in this sub-section shall apply to any instrument registered before the date of commencement of the Indian Stamp (Andhra Pradesh Amendment) Act, 1971.

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may appeal to the Appellate Authority specified in sub-section (5). All such appeals shall be preferred within such time and shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

(5) The appellate authority shall be—

(i) in the cities of Hyderabad and Secunderabad, the City Civil Court;

(ii) elsewhere—

(a) the Subordinate Judge or if there are more than one Subordinate Judge, the Principal Subordinate Judge, having jurisdiction over the area in which the property concerned is situated; or

(b) if there is no such Subordinate Judge, the District Judge having jurisdiction over the area aforesaid.

(6) For the purposes of this Act, market value of any property shall be estimated to be the price which in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched or would fetch if sold in the open market on the date of execution of the instrument of conveyance, exchange, gift, partition or settlement."—Andh. Pra. Act XXII of 1971, Section 5.

Orissa:

Section 47-A inserted in Orissa is the same as in Andhra Pradesh, except with the following difference:—

(i) Section corresponds to sub-sections (1) to (4);

(ii) In sub-section (1) read 'any instrument transferring any property' for 'any conveyance..... settlement';

(ii) In sub-section (3) (which corresponds to sub-section (4) of Andhra Pradesh), for 'or sub-section (3), read 'or sub-section (2a)' and for the words beginning from 'may appeal to the appellate authority specified in sub-section (5) to the end read 'may, within thirty days from the date of the order, prefer an appeal before the District Judge and all such appeals shall be heard and disposed of in such a manner as may be prescribed by rules made under this Act'.—Ori. Acts XXXV of 1962, Section 2 and XI of 1965, Section 1 (1-7-1965).

Pondicherry:

After Section 47, insert the following:—

"**47-A. Instruments of conveyance, etc., undervalued how to be dealt with.**—(1) If the registering officer appointed under Indian Registration Act, 1908, when registering any instrument of conveyance, exchange or gift has reason to believe that the market value of the property which is the subject-matter of conveyance, exchange or gift has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon."

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the market value of the property which is the subject-matter of conveyance, exchange or gift and the duty as aforesaid. The difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.

(3) The Collector may, suo motu, within two years from the date of registration of any instrument of conveyance, exchange or gift not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject-matter of conveyance, exchange or gift and the duty payable thereon and if, after such examination, he has reason to believe that the market value of such property has not been truly set forth in the instrument he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty shall be payable by the person liable to pay the duty:

Provided that nothing in this sub-section shall apply to any instrument registered before the date of commencement of the Indian Stamp (Pondicherry Amendment) Act, 1970.

(4) (a) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may appeal to the appellate authority specified in sub-section (5).

(b) All such appeals shall be preferred within such time, and shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

(5) The appellate authority shall be the Subordinate Judge, or, if there are more than one Subordinate Judge, the Principal Subordinate Judge having jurisdiction over the area in which the property concerned is situated.

Explanation.—For the purposes of this Act, market value of any property shall be estimated to be the price which, in the opinion of the Collector or the

appellate authority, as the case may be, such property would have fetched or fetch, if sold in open market on the date of execution of the instrument of conveyance, exchange or gift."—Pondi. Act XXI of 1970, Section 8 (5-8-1970).

Rajasthan:

After Section 47, insert the following:—

"47-A. Instruments undervalued, how to be valued.—(1) Where, in the case of any instrument relating to any immovable property chargeable with an ad valorem duty on the value of the property, or the consideration, as set forth in the instrument, the registering officer has, while registering the instruments, reasons to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, send it, in original, to the Collector to determine the value or consideration and to assess and charge the duty in conformity with such determination.

(2) On receipt of the instrument under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an inquiry in the prescribed manner, determine the value or consideration and the duty payable thereon as if that were the value or consideration set forth in the instrument; and if the amount of duty so determined exceeds the amount of duty already paid, the deficient amount shall be payable by the person liable to pay the duty.

(3) Any person aggrieved by an order of the Collector under sub-section (2) may, within thirty days from the date of the order, prefer an appeal before the Court and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

(4) For the purposes of enquiries under this section, the Collector shall have power to summon and enforce the attendance of witnesses including the parties to the instrument or any of them and to compel the production of documents by the same means and (so far as may be) in the same manner, as is provided in the case of Civil Court under Code of Civil Procedure, 1908 (Central Act 5 of 1908);

Explanation.—For the purposes of sub-section (3), 'Court' means a Principal Civil Court of original jurisdiction, and includes a Court which the State Government may, by notification in the Official Gazette, appoint within any specified local limits to perform the functions of the Court under that sub-section."—Raj. Act VII of 1952, Section 3, as amended by Raj. Act XVI of 1966, Section 2 (c) (13-6-1966).

Tamil Nadu:

Section 47-A (1), (2) and (3) same as in Pondicherry except that in the proviso to sub-section (3), "Indian Stamp (Mad. Am.) Act, 1967" for Indian Stamp (Pondi. Am.) Act, 1970".

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may appeal to the appellate authority specified in sub-section (5). All such appeals shall be preferred within such time, and shall be heard and disposed of in such manner as may be prescribed by rules made under this Act."

(5) The appellate authority shall be—

(i) in the City of Madras, the Madras City Civil Court; and

(ii) elsewhere—

(a) the Subordinate Judge, or if there are more than one Subordinate Judge, the Principal Subordinate Judge having jurisdiction over the area in which the property concerned is situated; or

(b) if there is no such Subordinate Judge, the District Judge having jurisdiction over the area aforesaid.

Explanation.—For the purposes of this Act, market value of any property shall be estimated to be the price which, in the opinion of the Collector or the appellate authority, as the case may be, such property would have fetched or fetch, if sold in open market on the date of execution of the instrument of conveyance, exchange or gift."—T. N. Act XXV of 1967, Section 8 (22-4-1968).

Uttar Pradesh:

After Section 47, insert the following:—

"47-A. **Instruments of conveyance, etc., if undervalued, how to be dealt with.**— (1) If the market value of any property which is the subject of any instrument of conveyance, exchange, gift, settlement, award or trust, as set forth in such instrument is less than that determined in accordance with any rules made under this Act, the registering officer appointed under Indian Registration Act, 1908, shall refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

(2) Without prejudice to the provisions of sub-section (1) if such registering officer, while registering any instrument of conveyance, exchange, gift, settlement, award or trust, has reason to believe that the market value of the property which is the subject of conveyance, exchange, gift, settlement, award or trust, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

(3) On receipt of a reference under sub-section (1) or sub-section (2) the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the market value of the property which is the subject of conveyance, exchange, gift, settlement, award of trust and the duty as aforesaid. The difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.

(4) The Collector may suo motu or on a reference from the Chief Inspector of Stamps, U. P., within two years from the date of registration of any instrument of conveyance, exchange, gift, settlement, award or trust not already referred to him under sub-section (1) or sub-section (3), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject of conveyance, exchange, gift, settlement, award or trust and the duty payable thereon, and if after such examination he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty payable thereon in accordance with the procedure provided for in sub-section (3). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty."—U. P. Act XI of 1969, Section 2.

48. Recovery of duties and penalties.—All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress

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Section 48 — Note 1

(1) Insufficiently stamped instrument admitted in evidence — Decree passed on it through oversight without deficiency in stamp and requisite penalty having been recoverd by Court — Section will apply and duty and penalty can be recovered under it. AIR 1937 Oudh 176 (177) (DB).

(2) Person tendering document in evidence not person bound to bear expenses of stamp under Section 29. Such person cannot be proceeded against under this section but only person liable under Section 29 can be so proceeded against. AIR 1940 Lah 315 (317) **(SB) ** AIR 1957 Andh Pra 237 (241) (FB).** (There is no justification for restricting liability fixed under Section 29 as one inter se between parties to document. 30 All 271 and AIR 1956 Mad 454, **Dissented from.)** ** AIR 1957 Trav-Co 251 (252, 253) ** AIR 1955 Bom 79 (Pr 3) (SB). (If a company registers an instrument of transfer of shares which is not duly stamped, it would be doing something which is not lawful. But there is no provision in the Companies Act or in the Stamp Act, which would make the company liable for payment of the proper stamp duty.)

[But see AIR 1955 Mad 425 (429) ** (1908) 30 All 271 (272, 273) (DB).]

(3) The solution of the question as to who is the person against whom the Collector could proceed under Sections 40 and 48 has to be searched for elsewhere than in Sections 29 and 44, and the true solution lies by following the provisions of Sections 17 and 62. These sections show that the agreement between the parties and the provisions of Ss. 29 and 44 are applicable only between the parties, leaving the Collector's right under Sections 40 and 48 unaffected. AIR 1956 Mad 454 (458) (DB). (30 All 271 and AIR 1940 Lah 315, **Dissented from.)**

(4) The parties to a partition deed are liable to pay stamp duty in proportion to their respective shares in the property partitioned unless there is an agreement to the contrary and they are the persons from whom the duty and penalty are due. The Collector can,

and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

STATE AMENDMENTS

Section 48-A:

Andaman and Nicobar:

In its application to the Andaman and Nicobar Islands, in Chapter IV, after Section 48, insert the following new section, namely:—

"48-A. Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Andaman and Nicobar Islands.—Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in the Andaman and Nicobar Islands with a higher rate of duty under the Indian Stamp (Andaman and Nicobar Islands Amendment) Regulation, 1957, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty, unless the duty chargeable under the Indian Stamp (Andaman and Nicobar Islands Amendment) Regulation, 1957, has been paid on such instrument."—Regn. III of 1957, Section 11 (1-8-1957).

Bihar:

In its application to the State of Bihar, the new Section 48-A is the same as that of Andaman and Nicobar, except the following, namely, for the words "the Andaman and Nicobar Islands", the word "Bihar" is to be substituted and for the short title of the Regulation the short title "the Bihar Stamp (Amendment) Act, 1937" is to be substituted.—Bih. Act VI of 1937, Section 11 (with effect from 1-1-1938).

Madhya Pradesh:

In its application to the whole State of Madhya Pradesh on and from the first day of November, 1957 the new Section 48-A is the same as that of Andaman and Nicobar, except the following, namely, for the words "the Andaman and Nicobar Islands", the words "Madhya Pradesh" are to be substituted and for the short title of the Regulation the words and figures "this Act as amended by the Central Provinces and Berar Indian Stamp (Amendment) Act, 1939" are to be substituted.—C. P. and Berar Act IV of 1939, Section 10 (1-7-1939) read with M. P. Act XVIII of 1957, Section 3 (2).

Orissa:

In its application to the whole State of Orissa, the new Section 48-A is the same as that of Andaman and Nicobar, except the following, namely, for the words "the Andaman and Nicobar Islands", substitute the words "the State of Orissa" and for the short title of the Regulation the short title "the Orissa Stamp (Amendment) Act, 1943" is to be substituted.—Orissa Act VI of 1943, Section 11 (26-4-1943).

Section 48 — Note 1 (contd.)

therefore proceed under Section 48 only against each of the parties in respect of the proportionate amount of the duty due from him. **AIR 1957 Andh Pra 237 (243) (FB).** (30 All 271 and AIR 1956 Mad 454, **Dissented from.)**

(5) Duty and penalty must be considered to be a debt due to the Crown from the person liable to pay the same and can be recovered under this section even after his death from such portion of his estate as may be found in the hands of his legal representatives. **AIR 1940 Lah 315 (318) (SB)** ** (1931) Beng SM Vol I p. 43. (Obligation is personal one and does not extend to heirs or legal representatives of deceased.) ** (1940) Bihar SM p. 128. (Do.)

(6) Where several persons jointly execute a document, the Collector can proceed, under Sections 40 and 48, against any of them as they are all jointly and severally liable. He is not bound to collect the pro rata shares from each. AIR 1956 Mad 454 (458) (DB). (30 All 271 and AIR 1940 Lah 315, **Dissented from.)** ** AIR 1972 Mad 268 (269) = (1972) 85 Mad LW 274.

(7) Where warrants were issued or were about to be issued under Section 48 for attachment and sale of petitioner's property for the recovery of stamp duty and penalty, as arrears of land revenue, it was held that the petitioner can move the High Court under Article 226 of the Constitution, instead of moving the Board of Revenue either to revise the order or to make a reference to the High Court since these remedies under the Act are not speedy, effective and adequate. AIR 1956 Mad 454 (457) (DB).

Rajasthan:

In its application to the whole of the State of Rajasthan on and from the first day of April, 1958, after Section 48, insert the following new section, namely:—

"**48-A. Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable.**—Notwithstanding anything contained in the Indian Act, no certificate or endorsement thereunder in respect of an instrument chargeable in the State of Rajasthan with a higher rate of duty under the Indian Act as adapted to that State shall be received in evidence or be in any way valid in respect of payment of duty on such instrument unless the duty chargeable at the rates provided in the Indian Act as so adapted has been paid on such instrument."—Raj. Acts VII of 1952 and XI of 1958, Section 3 (xvi).

Uttar Pradesh:

In its application to the whole of the State of Uttar Pradesh, for Section 48-A, as inserted and amended by the previous amending U. P. Acts, substitute the following, namely:—

48-A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in Uttar Pradesh with a higher rate of duty in accordance with this Act as amended in its application to Uttar Pradesh shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument unless the duty chargeable at the rates provided in this Act as amended in its application to Uttar Pradesh has been paid on such instrument."—U. P. Act XLIII of 1958, Section 6 (with effect from 1-4-1959).

West Bengal:

In its application to the State of Bengal, the new Section 48-A is the same as that of Andaman and Nicobar, except for the following, namely, for the words "the Andaman and Nicobar Islands", the words "West Bengal" are to be substituted and for the short title of the Regulation the following short titles of the Acts are to be substituted, namely, "the Bengal Stamp (Amendment) Act, 1922" or "the Indian Stamp (Bengal Amendment) Act, 1935".—Beng. Acts III of 1922, Section 11 (1-4-1922); XII of 1935, Section 5 (1-6-1935).

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

49. Allowance for spoiled stamps.—Subject to such rules as may be made by the *[State Government] as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in sec-

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Section 49 — Note 1

(1) Provision as to allowance for spoiled stamps under this section is restricted to impressed stamps, and does not apply to adhesive stamps. (1933) Mad SM p. 50 ** (1934) Punjab SM Part I-B, Ch. 3, para 36 p. 16. (Refunds under sub-clause (d) (6) are allowable independently of refund rules in and under Act itself in case of stamps rendered useless solely in consequence of change of law or rule.)

(2) Collector to whom the application for refund is made may require the person claiming a refund to put in an affidavit of make an oral deposition or the Collector may call for evidence of witnesses in support of the claim. 1933 Mad SM p. 50.

(3) Inquiry to be made and the powers to be exercised under this section must be made and exercised by the Collector himself and he cannot delegate his authority to any other officer. (1883) 5 All 17 (21) (DB).

(4) In the proceedings before the Collector the party may be represented by a pleader and the refund can be granted in the name of the pleader. (1933) Mad SM p. 52.

(5) Collector making an inquiry under this section is not a Court within the meaning of Section 195 of the Criminal Procedure Code. (1868) 3 Beng LR (App) (Cr) 6 (8) (DB).

(6) Section does not restrict the right to apply for refund to a purchaser of the stamp and a person other than the purchaser of the stamp can apply for a refund under this section. AIR 1929 Lah 332 (333).

(7) Refunds of the value of non-judicial stamps may be made by any officer appointed to exercise the powers of a Collector in this behalf except in respect of stamps purchased outside a district in which case application should be made to the District Collector. (1933) Mad SM p. 51. (If Collector calls for evidence and if applicant does not adduce evidence called for by Collector within one year of order or when allowance has been ordered applicant does not withdraw amount within one year of date of order application for refund may be struck off.)

(8) Stamp purchased for sale certificate inadvertently punched by officer of Court, but sale certificate drawn upon it — Stamp can-

tion 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto;

(c) in the case of bills of exchange †[payable otherwise than on demand] ‡[°] or promissory notes—

(1) the stamp on §[any such bill of exchange] *†[° °] signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange °†[° *] to be afterwards written thereon;

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands;

(3) the stamp used or intended to be used for §[any such bill of exchange] °†[°] or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange °†[° *] may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange °‡[°] or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, °†[°] or note;

(d) the stamp used for an instrument executed by any party thereto which

(1) has been afterwards found to be absolutely void in law from the beginning;

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, can-

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Section 49 — Note 1 (contd.)

not be held to have been rendered unfit for use. **(1895) 18 Mad 235 (236) (SB).**

(9) Refund for the value of stamps affixed to bills of exchange which have been used as cover and sent to home firms or home partners or directors who are payees is not to be granted. (1933) Mad SM p. 51. (Bill of exchange rendered unfit for use due to clerical error in filling it up — Refund for spoiled stamps can be granted under clause (a).) ** (1934) Punjab SM Part I-B, Ch. 3. para 36, p. 16.

(10) Sale-deed executed in favour of A, but A died before registration of document — Second sale-deed on stamp of same value executed in favour of A's widow — Second document may be considered to have been executed between same parties and refund could be granted under sub-clause (d) (6). (1933) Mad SM p. 52. (Various sub-clauses in clause (d) are intended each to allow and provide for refund in cases to which each sub-clause applies and their effect is not mutually destructive.)

(11) Refund should not be granted under this section of the value of stamps on a registered instrument unless a fresh instrument is registered between the same parties relating to the same properties, subject to the same terms and conditions as the original document. (1933) Mad SM p. 52. (Citing BP Mis No. 845, dated 27th March 1940.)

(12) Refund sanctioned — Stamps should be punched to prevent their being again sold or used to support claim for refund. (1933) Mad SM p. 51.

(13) Section does not contemplate allowance where a composite instrument embodying rights and liabilities fails only in part and is good for the remaining part. AIR 1970 Mad 349 (350) = 83 Mad LW 203 (FB).

not be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended.

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

[1879—S. 51; 1869—Ss. 45, 46; 1862—S. 50 (1), (2); 1860—S. 32 (1), (2).]

[*] Substituted for "collecting Government" by A.L.O., 1950.

[†] Inserted by the Indian Finance Act, 1927 (V of 1927), Section 5.

[‡] The word "cheques" was omitted ibid.

[§] Substituted for "any bill of exchange", ibid.

[*†] The words "or cheque" were omitted, ibid.

50. Application for relief under section 49 when to be made.—The application for relief under section 49 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument;

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that,—

(a) when the spoiled instrument has been for sufficient reasons, sent out of *[India], the application may be made within six months after it has been received back in *[India];

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

[1879—S. 51, Provisos.]

[*] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 2 (with effect from 1-4-1956).

51. Allowance in case of printed forms no longer required by corporations.—The Chief Controlling Revenue-authority* †[or the Collector if empowered by the Chief Controlling Revenue-authority* in this behalf] may, without limit of time, make allowance for stamped papers used for printed forms of instruments ‡[by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said ‡[banker,] company or body corporate: provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

[*] For definition, see General Clauses Act, 1897 (X of 1897), Section 3 (10).

[†] Inserted by the Decentralization Act, 1914 (IV of 1914), Section 2 and Schedule, Part I.

[‡] Inserted by the Indian Stamp (Amendment) Act, 1906 (V of 1906), Section 6.

52. Allowance for misused stamps.—(a) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13;

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

[1879—Section 52.]

53. Allowance for spoiled or misused stamps how to be made.—In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value; or

(b) if required and he thinks fit, stamps of any other description to the same amount in value; or

(c) at his discretion, the same value in money, deducting °[ten naye paise] for each rupee or fraction of a rupee.

[1870—S. 53; 1869—S. 45; 1862—S. 50 (3).]

[°] Substituted for "one anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 8 (1-10-1958).

STATE AMENDMENT

Tamil Nadu:

In its application to the whole State of Tamil Nadu, in Section 53, for the words "one anna for each rupee", substitute the words "ten naye paise for each rupee".—T. N. Act XIV of 1958, Section 13 (1-10-1958).

Section 51 — Note 1

(1) Section is of particular value when companies are wound up, and skeleton and other stamped forms become useless. (1934) Punjab SM Part I-B, Ch. 3, p. 17.

(2) Allowance in the case of printed forms provided by this section should also be made in the case of typewritten forms of instrument. (1933) Mad SM p. 53.

Section 52 — Note 1

(1) Section applies to all kinds of stamps whether impressed or adhesive, used under the Act, but great caution is necessary in refunding the value of adhesive stamps. (1933) Mad SM p. 53 ** (1940) Bihar SM p. 226 ** (1934) Punjab SM Part I-B Ch. 3, p. 17. (Collector must satisfy himself that misuse was inadvertent.)

(2) Barrister enrolled as attorney of High Court and paid requisite stamp duty of Rs. 250 — Subsequently enrolled as advocate of same High Court and paid stamp duty of Rs. 500 — Application from him for refund of Rs. 500 by virtue of exemption to Article 30 — Stamp duty held should be refunded under this section. **(1909) 36 Cal 645 (646) (SB).**

Section 53 — Note 1

(1) Under Cl. (b) court-fee stamps cannot be granted in exchange for non-judicial stamps. (1933) Mad SM p. 53. (Deduction is to be made only when money value is given under

54. Allowance for stamps not required for use.—When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting *[ten naye paise] for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled and proving to the Collector's satisfaction—

(a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and
(b) that he has paid the full price thereof; and
(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

[1879—S. 54; 1869—S. 45.]

[*] Substituted for "one anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 8 (1-10-1958).

STATE AMENDMENT

Tamil Nadu:

In its application to the whole State of Tamil Nadu, in Section 54, for the words "one anna for each rupee", substitute the words "ten naye paise for each rupee".—T. N. Act XIV of 1958, Section 13 (1-10-1958).

*[**54-A. Allowances for stamps in denominations of annas.**—Notwithstanding anything contained in section 54, when any person is possessed of a stamp or stamps in any denominations other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906, upon such person delivering up, within six months from the commencement of the Indian Stamp (Amendment) Act, 1958, such stamp or stamps to the Collector,]

[*] Inserted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 9 (1-10-1958).

*[**54-B. Allowances for refugee relief stamps.**—Notwithstanding anything contained in section 54, when any person is possessed of stamps bearing the inscrip-

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Section 53 — Note 1 (contd.)

clause (c). ** (1934) Punjab SM Part I-B, Ch. 3. pp. 17, 18. (Do.)

(2) Incorrect endorsement inadvertently made — Stamped paper can be treated as spoiled under Section 49 of Act and allowance can be claimed under this section. (1933) Mad SM p. 54. (Citing BP 99, 1st February 1888.)

Section 54 — Note 1

(1) Collector should before passing orders of repayment examine very carefully the original endorsement of sale to see if it has been in any way changed or effaced and satisfy himself that the applicant is the bona fide purchaser of the stamp in question or is duly authorized by him to apply for the refund. (1940) Bihar SM p. 134.

(2) Stamp-vendor sold two rupee stamp and eight anna stamp certifying that he had no single stamp of value of Rs. 2-8-0 — Purchaser who used two rupee stamp for another transaction, applied for refund of value of eight anna stamp — Refund held could be made if requirements of section were satisfied. (1933) Mad SM p. 54. (Exchange of judicial for unused non-judicial stamps is contrary to law.)

(3) Section applies to all kinds of stamps used under the Act, but great caution should be used in refunding the value of adhesive stamps. (1940) Bihar SM p. 226 ** (1933) Mad SM p. 33 ** (1934) Punjab SM Part I-B, Ch. 3, p. 18.

(4) More stamps than one presented for refund — Deduction of one anna in rupee should be made on aggregate value of stamps and not on each stamp. (1940) Bihar SM pp. 133, 134 ** (1931) Beng SM Vol I p. 48 ** (1942) CPS p. 120.

(5) Use of stamps purchased more than six months ago is valid though a person cannot get back his money under this section. AIR 1943 Oudh 314 (314).

(6) Section 54 deals with a case, where a person is possessed of stamps either by himself or in the hands of the Collector, but for which stamps he has no immediate use; that is, it contemplates a position where the stamps would be usable on a future occasion It does not cover a case where the stamps have been written upon or are useless for any future purpose whatsover. (1964) 77 Mad LW 288 (289).

(7) Refund of stamp — Approach not made to Collector as under Section 54 — Suit filed for refund of stamps — Section 54 does not come in way of suit. 1963 Jab LJ 46 (48).

tion "Refugee Relief" (being stamps issued in pursuance of section 3-A before its omission) and such stamps have not been spoiled, the Collector shall, upon such person delivering up, within six months from the commencement of the Refugee Relief Taxes (Abolition) Act, 1973, such stamps to the Collector, refund to such person the value of such stamps in money or give in lieu thereof other stamps of the same value:

Provided that the State Government may, with a view to facilitating expeditious disposal of claims for such refunds, specify, in such manner as it deems fit, any other procedure which may also be followed for claiming such refunds.]

[*] Inserted by Act 13 of 1973, Section 2 (with retrospective effect from 1-4-73).

55. Allowance on renewal of certain debentures.—When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the °[State Government] may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

(a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;

(b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;

(c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and

(d) the alteration of the rate of interest or the dates of payment thereof.

[°] Substituted for "Provincial Government" by A.L.O., 1950.

CHAPTER VI

REFERENCE AND REVISION

56. Control of, and statement of case to, Chief Conrtolling Revenue-authority.— (1) The powers exercisable by a Collector under Chapter IV and Chapter V *[and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the Chief Controlling Revenue-authority†.

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may

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Section 55 — Note 1

(1) Partition deed in respect of joint family properties between father and son and another — Deed comprising property in joint possession of mother, son and grand son — Mother giving up her life interest in that property in favour of son and grand son — Deed stamped as partition deed — **Held,** the document did not comprise two distinct transactions of partition and conveyance falling under Articles 45 and 23. respectively of Schedule I and is not subject to levy of stamp duty under both of the said Articles. **AIR 1970 Mad 348 = (1970) 2 MLJ 326 (327 and 328) (FB).**

(2) Document produced in appeal — High Court assessing penalty — Validity of the order — **Held,** that the judgment relating to the assessment of penalty was not warranted by the provisions of the Stamp Act and did not constitute a bar to hearing the matter by the Full Bench in a reference under Section 55 after the assessment of penalty by the Collector. **AIR 1955 Hyd 17 (20) = ILR (1954) Hyd 562 (FB).**

Section 56 — Note 1

(1) Section 56 (1) gives powers to the Board to interfere with the orders of the Collector passed under Chapters IV and V, and under Clause (a) of the first proviso to Section 26, whether the Collector is about to exercise those powers or has exercised those powers, subject however to such provisions in the Stamp Act, which declare the orders of the Collector conclusive, as for example Sec. 40, sub-section (2). So far as the order of the Collector which are within the ambit of Section 56 (1) are concerned the Board has th right to revise them if no provision of the Stamp Act makes them conclusive, and to make a reference under Section 57 in that connection if the matter comes to its knowledge otherwise. **AIR 1956 Raj 155 (157) (SB)** ** (1963) 1 Mys LJ 175 (178).

(2) Section 31 is not subject to the control of the Chief Controlling Revenue-authority under Section 56 (1). (1902) 25 Mad 752 (755) **** (1902) 25 Mad 751 (752) (SB)** ** AIR 1932 Cal 736 (737) (SB).** (If party has not paid stamp duty and Collector after impounding document commences case under Section 40, Board of Revenue would be able to intervene in such proceeding if it intervenes before it is completed.)

[But see **AIR 1934 Cal 803 (804) (SB).**]

(3) Sub-Registrar acting under Section 33 impounded certain documents produced be-

draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority†.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

[1879—S. 45; 1869—S. 40; 1862—Ss. 15 (5), 35; 1860—S. 13 (3).]

[*] Inserted by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 7.

[†] For definition, see General Clauses Act, 1897 (X of 1897), Section 3 (10).

STATE AMENDMENT

Guiarat:

In its application to the State of Gujarat, in Section 56, in sub-section (1), for the words "Chapter IV and Chapter V", substitute the words "Chapter III, Chapter IV and Chapter V".—Guj. Act XIX of 1965, Section 10 (18-6-1965).

Section 56 — Note 1 (contd.)

fore him for registration and under Section 38 (2) forwarded them to Collector who under Section 40 (1) (a) certified that they were exempt from stamp duty — Inspector General of Registration disagreed with opinion of Collector and reported matter to Board of Revenue for orders — Board of Revenue referred question as to stamp duty if any payable on documents to High Court under Sec. 57 — Board of Revenue held had no authority to revise certificate of Collector under Sec. 56 (1). **(1902) 25 Mad 752 (761) (SB) ** AIR 1918 All 181 (182) (SB)** ** AIR 1926 Bom 51 (52) ** AIR 1935 Nag 54 (55).

(4) Where no revision against order of Collector was filed to the Board of Revenue but the latter was asked its opinion whether the order of the Collector was without jurisdiction it was held that the opinion of Board was not a decision by it but a mere expression of opinion on a question of law. 1954 All LJ 520 (522).

(5) The High Court of Rajasthan has, however, held that if the executive authorities are dissatisfied with the order of the Collector under Section 42 (1). their remedy is by way of revision to the Chief Controlling Revenue Authority under Section 56 (1). AIR 1957 Raj 211 (213) (DB).

(6) Document impounded and sent to Collector — Collector acting under Section 40 (1) (b) called upon executant to pay up deficiency in stamps together with penalty — Order can be revised by Chief Controlling Revenue-authority under Section 56 (1) before stamp duty so demanded is paid. AIR **1932 Lah 495 (496) (SB) ** AIR 1936 Lah 449 (450) (SB)** ** (1908) 30 All 271 (272).

(7) Order of Collector cancelling the licence of a stamp vendor does not come either under Chap. IV or V and this order cannot be set aside by the Chief Controlling Revenue-authority under Section 56 (1). 1942 Nag LJ 544 (545).

(8) Where in an application under Section 37 in respect of certain hundis which were sufficiently but improperly stamped, the Collector refused to give the necessary certificate, on the erroneous view that there were no Stamp Rules in existence, and on an application under Section 56 (1) the matter was referred to the High Court, it was held, that the Board of Revenue where the matter was pending was entitled to revise the order of the Collector and to pass an order in conformity with the Stamp Rules and dispose of the application before it under its powers under S. 56 (1). **AIR 1956 Raj 155 (153) (SB).**

(9) Even though a person aggrieved by an order of attachment and sale of his property under Section 48, has his remedies under the Act by way of a revision to the Board of Revenue or by an application to it to make a reference to the High Court, he can move the High Court under Article 226 of the Constitution, for a writ of certiorari since the remedies under the Act are not speedy, effective and adequate. AIR 1956 Mad 454 (457) (DB).

(10) Reference under sub-section (2) is to be made by the Collector if he feels doubt as to the amount with which any instrument is chargeable. **(1892) 15 All 107 (108) (SB) **** (1933) Mad SM, p. 55.

(11) Making of the reference under sub-section (2) is the discretion of the Collector and the public cannot compel him to refer the question arising in any particular case to the decision of the Chief Controlling Revenue-authority. AIR 1939 Bom 215 (217) ** AIR 1935 Nag 54 (55).

(12) The distinction between a case where an excess duty and penalty were levied by the Collector and paid by the party which resulted in the issue of a certificate under Section 42 and a case where the duty, though levied, was not paid is on the basis of the terms of Section 56 (1) which appears to give right of appeal only in regard to a case where the powers exercisable by the Collector under Chs. IV and V are exercised. AIR 1960 Mad 21 (24).

(13) Where the case has been referred by the Collector to the Chief Controlling Revenue Authority, it is primarily the function of the Chief Controlling Revenue Authority to decide the question of proper stamps. In doubtful cases referred to it by the Collector acting under Section 31, 40 or 41 and in cases coming to it otherwise than on a reference under Section 56 (2), discretion has been vested in the controlling authority to make a reference to the High Court under Section 57. **AIR 1957 Raj 125 (126) (SB).**

(14) No penalty is to be levied by the Collector in a case in which a reference is made to the Board under sub-section (2). (1931) Beng SM Vol I, p. 49.

(15) Sub-section (2) confers upon the Board of Revenue power to deal with instruments which are already in existence and which have been made the subject of action by the Collector acting under Sections 31, 40 and 41 and not with instruments which may or may not hereafter come into existence. AIR 1915 All 33 (34).

(16) There is no provisions in the Act under which the powers of the Chief Controlling

57. Statement of case by Chief Controlling Revenue-authority to High Court.— (1) The Chief Controlling Revenue-authority* may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

†[(a) if it arises in a State, to the High Court for that State;

(b) if it arises in the Union territory of Delhi§ or Himachal Pradesh§, to the High Court of Punjab;§

Section 56 — Note 1 (contd.)

Revenue Authority can be delegated to the Inspector General of Stamps and Registration or to any other person. AIR 1959 Andh Pra 664 (666).

(17) Words "otherwise coming to its notice" in S. 57 (1) include cases which come to notice of said authority in exercise of its revisional powers under Section 56 (1) — Benefit is available also to party affected by assessment — Application for making reference not necessary — Revenue Authority can act suo motu — If it omits to make reference High Court has power under Article 226 of the Constitution to issue writ of mandamus to such authority directing it to discharge that duty. AIR 1968 Delhi 219 (222, 223 and 225).

(18) Court under Section 35 decided that document is not duly stamped and ordered payment of stamp duty and penalty — Party instead of paying. moves in Revision against the said interlocutory order — **Held** that the remedy was not by way of revision to the High Court at this stage and petitioners should have first exhausted the remedies under Sections 40, 56 and 57. ILR (1962) Cut 121 (123 and 124) (Orissa).

(19) Inspector of Stamps and Registration acting as Collector under Section 40 or the Board of Revenue, as the Chief Controlling Revenue Authority acting under Section 56 (i) are not barred on the principle of res judicata and stare decisis from examining the question of proper stamp duty payable on the document for the reason that the Collector Meerut had acting under Secs. 31, 32 endorsed certain other documents on which duty had been properly paid. AIR 1972 All 519 (521, 522) = 1972 All LJ 632.

(20) Case otherwise coming to notice of Chief Controlling Revenue Authority — Case coming to notice in exercise of revisional powers under Section 56 (1) is such a case — Reference to Court can be made only when case is pending before Revenue authority. AIR 1966 Punj 169 (171 to 173) = 1965 Pun LR (Supp) 305.

(21) Suit for refund of stamp duty and penalty paid under Stamp Act — A Civil Court has jurisdiction to entertain such a suit. AIR 1959 Orissa 144 (148) = 25 Cut LT 381 (DB).

(22) Chief Controlling Revenue Authority imposing penalty after holding that there was a deficiency on the document directing the Collector to realise the amount of penalty — Order concerning penalty is liable to be quashed as the said authority does not get the power to impose a penalty. 1970 All WR (HC) 138 (139).

(23) Order dismissing revision application under Section 56 (1) of Stamp Act (1899) — Application under Section 57 (1) for stating case to High Court not made — Order could not be set aside by writ of certiorari — But High Court could direct Chief Controlling Revenue Authority to state case under Section 57 (1) though no matter was pending before it. AIR 1966 Punj 169 (173) = 1965 Pun LR (Supp) 305.

(24) The Chief Controlling Revenue Authority (the Board of Revenue) in the exercise of the quasi-judicial function under Section 56 (1) of the Act, ought to have given the petitioner a personal hearing in the disposal of the appeal. Section 56 (1) vests in the Chief Controlling Revenue Authority a power of control over the decision of the Collector and this power could be invoked by the aggrieved party. Under Sec. 56 (2) the Chief Controlling Revenue Authority is moved to act by the Collector before he takes a decision. AIR 1970 Mad 148 (150 and 151) = (1969) 1 MLJ 418 ** **AIR 1962 SC 1217 (1219) = 1962 SCD 767.**

Section 57 — Note 1

(1) Section cannot be used as a means for the obtaining of an opinion from the High Court on questions of a general nature. **AIR 1929 Cal 799 (800) (SB)** ** AIR 1926 Bom 51 (52) ** 1893 Bom PJ 449 (450). (Conservator of Forests cannot make reference under this section.) ** **(1878) 3 Cal 347 (350) (SB).**

(2) The section invests the Chief Controlling Revenue Authority with a discretionary power to make a reference to the High Court in the following cases, namely (i) doubtful cases referred to it by the Collector acting under Section 31, 40 or 41 and (ii) cases coming to its notice otherwise than on a reference under Section 56 (2). **AIR 1957 Raj 125 (126) (SB).** (Discretion is usually exercised by the Board of Revenue to secure a judgment of the High Court in doubtful cases only.)

(3) Instrument in respect of which reference made under this section not in existence at date of reference — High Court has no jurisdiction to give opinion on questions referred. **AIR 1915 All 33 (34) (SB).**

(4) When a serious question of law is involved, there is a duty cast upon the Chief Controlling Revenue Authority to state a case under Section 57 (1) and the subject has definitely a right to have such a case determined by the High Court. The breach of duty lies in a failure to appreciate that there is a serious question of law involved and it can be enforced by an order under Sec. 45, Specific Relief Act. AIR 1948 Bom 254 (259, 260, 261) (DB) ** 1958 Andh LT 954 (956).

(5) Section 226 of the Government of India Act, 1935, gives no power to the High Court directing the Chief Controlling Revenue Authority to state a case under Section 57 and the High Court's order in such a case would not amount to the exercise of original jurisdic-

(c) if it arises in the Union territory of Manipur§ or Tripura§, to the High Court of Assam;
(d) if it arises in the Union territory of the Andaman and Nicobar Islands, to the High Court at Calcutta; and
(e) if it arises in the Union territory of Laccadive, Minicoy and Amindivi Islands, to the High Court of Kerala.]

(2) Every such case shall be decided by not less than three Judges of the High Court, ‡[* * °] to which it is referred, and in case of difference the opinion of the majority shall prevail.

[1879—S. 46; 1869—S. 41 (a), (b).]

[°] For definition, see General Clauses Act, 1897 (X of 1897), Section 3 (10).

[†] Substituted for the former Cls. (a) to (g) by 2 A.L.O., 1956.

[‡] The words "Chief Court or Judicial Commissioner's Court" were omitted by A.L.O., 1950.

[§] Delhi and Himachal Pradesh have separate High Courts—See Acts XXXI of 1966 and LIII of 1970.

Section 57 — Note 1 (contd.)

tion in any matter concerning the revenue but would only amount to asking the Revenue Authority to do its statutory duty. The fact that the proceedings in the case have passed beyond the stage of assessment and have reached the stage of enforcing payment is irrelevant because by the relief granted by the High Court no attempt has been made to obstruct the Revenue Authority in discharge of its duties. **AIR 1950 SC 218 (220) = 1950 SCR 536** ** AIR 1952 Mad 811 (Prs 3, 7).

[See also AIR 1960 Mad 21 (23). (AIR 1950 SC 218, followed.)]

(6) Where a reference is made under S. 57 in compliance with an order under Sec. 45. Specific Relief Act, the competency of the reference cannot be questioned on the ground that there had already been an adjudication by a competent authority as to the stamp duty payable on the instrument. **ILR (1948) 2 Cal 323 (330) (FB).**

(7) Once such authority decides the question no reference under this section can be made. Where the decision is given the fact that the proceedings are pending for the realisation of duty in accordance with the decision, will not make the case pending. AIR 1958 All 320 (321) (DB).

(8) Chief Controlling Revenue authority who makes a reference under this section is required to express its opinion on the point referred. **AIR 1924 Bom 524 (525) (SB)** ** **AIR 1950 All 319 (319) (SB).**

(9) References under Sec. 57 are not of an administrative character but are judicial in nature. **AIR 1950 All 319 (319) (SB).**

(9A) Reference to High Court obligatory when case involves a substantial question of law. **1973 Rajdhani LR 406 (FB).**

(10) Where in an application under Section 37, in respect of certain hundis, which were sufficiently but improperly stamped, the Collector refused to give the necessary certificate, on the erroneous view that there were no Stamp Rules in existence and on application under Section 56 (1) to the Board of Revenue the matter was referred to the High Court, it was held that the Board of Revenue where the matter was pending was entitled to revise the order of the Collector and to pass an order in conformity with the Stamp Rules and dispose of the application before it under its powers under Section 56 (1). **AIR 1956 Raj 155 (158) (SB).**

(11) Even though a person aggrieved by an order of attachment and sale of his property under S. 48 has his remedies under the Act, by way of a revision to the Board of Revenue or by an application to it to make a reference to the High Court, he can move the High Court under Article 226 of the Constitution, since these remedies are not speedy, effective and adequate. AIR 1956 Mad 454 (457) (DB).

(12) No suit lies under Section 106 (2) of Government of India Act. 1935, in High Court for declaration and refund of excess duty collected under the Act. AIR 1939 Bom 215 (216, 217).

(13) Word "case" in this section means a case which has not been finally and conclusively determined by the Collector or competent authority and which has to be disposed of in accordance with the High Court's judgment under Section 59 (2). **AIR 1934 Lah 666 (666) (SB)** ** **AIR 1958 All 417 (419) (SB)** ** AIR 1961 Punj 12 (15) ** **AIR 1926 Bom 51 (52) (SB)** ** **AIR 1918 All 181 (182) (SB)** ** **(1902) 25 Mad 752 (758, 766) (SB).**

(14) Duty and Penalty imposed under Section 40 (1) (b) not paid and consequently no certificate granted under Section 42 — Chief controlling Revenue authority can either itself revise order under S. 56 (1) or refer case to High Court under this section. **AIR 1932 Lah 495 (496) (SB)** ** **(1902) 25 Mad 752 (766) (SB).**

(15) Order of adjudication of stamp duty passed under Section 31 without any reference to the Chief Controlling Revenue-authority under Section 56 (2). is final if certified by the Collector under Section 32 and cannot be revised by the Chief Controlling Revenue-authority either directly under Section 56 (1) or indirectly by way of a reference under this section. **(1902) 25 Mad 752 (752) (SB).**

[See however **AIR 1934 Cal 803 (804) (SB).**]

(16) In suit based upon instrument bearing stamps of improper description, instrument validated by certificate under Section 37 read with R. 18, Stamp Rules, 1925 and admitted in evidence and decree passed — No reference can be made to High Court under this section. **AIR 1926 Bom 51 (52) (SB).**

Manipur and Tripura are full-fledged States and Gauhati High Court is the High Court for them. High Court of Assam is now known as Gauhati High Court. Punjab High Court is now known as Punjab and Haryana High Court.

STATE AMENDMENTS

Chandigarh:

In its application to the Union territory of Chandigarh, in Section 57, after clause (e), insert—

"(ee) if it arises in the Union territory of Chandigarh, to the High Court of Punjab and Haryana".—G.S.R. 1945, dated 30-10-1968, Gaz. of Ind., 1968, Pt. II, Sec. 3 (i), Extra., p. 580.

Dadra and Nagar Haveli:

In its application to the Union territory of Dadra and Nagar Haveli, in Section 57, after Cl. (e), insert the following:—

"(f) If it arises in the Union territory of Dadra and Nagar Haveli, to the High Court at Bombay"—Regn. VI of 1963, Section 2 and Schedule (1-7-1965).

Section 57 — Note 1 (contd.)

(17) Civil Court has no power to revise a Collector's certificate under Section 32 or Section 37 except upon a reference by the Chief Controlling Revenue-authority under this section. (1911) 7 Nag LR 26 (29) (DB) ** AIR 1957 Madh B 181 (182) ** AIR 1926 Sind 211 (213) ** AIR 1935 Sind 48 (49) ** **(1901) 23 All 213 (215) (SB).**

(18) Stamp duty on document determined by Collector under Section 31 but party refusing to pay duty and applying to Chief Controlling Revenue-authority for revision of order before document is impounded under Section 33 — Chief Controlling Revenue-authority cannot refer case to High Court. **AIR 1932 Cal 736 (737) (SB).** (Before Revenue-authority can refer to High Court case "otherwise coming to its notice" Revenue-authority should be faced with duty of disposing of case, as indicated by concluding words of Section 59.) ** AIR 1960 Cal 340 (344).

(19) Declaration made by appellate Court under Section 61 at instance of Collector — No steps taken to set it aside — Declaration is final and cannot be made subject of reference under this section. **AIR 1934 Lah 666 (666) (SB).**

(20) It is the Collector alone who has the power to assess the penalty, though the Court or any other officer having the authority by law may impound the document. But the court impounding the document has to send it to the collector under S. 38 (2). **AIR 1955 Hyd 17 (Prs 15, 16) (FB).**

(21) A case which is brought to the notice of the Chief Controlling Revenue-authority in connexion with the exercise by the Collector of any of the powers which are declared to be subject to the control of that authority is a case otherwise coming to its notice. **(1902) 25 Mad 752 (754) (SB)** ** AIR 1948 Bom 254 (259) (DB).

(22) All that is necessary is that there should be a case pending before any revenue authority. **AIR 1956 Raj 155 (156) (SB).**

(23) Sub-section (2) of Section 57 provides that when a case is stated under the provisions of sub-section (1) of this section, it shall be decided by not less than three Judges of the High Court. **AIR 1957 Raj 125 (126) (SB).**

(24) If any person affected by the order of the Stamp Authority wishes the authority to make a reference, he would do so at his own risk as to costs; if he succeeds, he will get the costs; if he fails, he will have to pay the costs to the Stamp Authority, unless of course in any given case there are special reasons to depart from this rule. **AIR 1952 Bom 285 (Pr 5) (SB).**

(25) Question already decided by Revenue Authority — Reference to High Court by Chief Revenue Controlling Authority incompetent. **AIR 1962 Mys 266 (268, 269) = 40 Mys LJ 638 (SB).**

(25a) Once the collector has decided the duty chargeable on the instrument, the case cannot be referred to the High Court under S. 57 (1) as decision of collector is final. (1973) 1 Mad LJ 390.

(26) A Civil Court has jurisdiction to entertain a suit for refund of stamp duty and penalty illegally realised by the Collector from the plaintiff. Simply because a citizen has got his remedy by way of invoking the jurisdiction of the High Court under Articles 226 and 227 of Constitution, it can never be accepted that the jurisdiction of the Civil Court is ousted. AIR 1959 Orissa 144 (146) = 25 Cut LT 381 (DB).

(27) Document tendered in evidence — Order of Court in regard to stamp duty and penalty — Remedy of party aggrieved is not by way of revision to the High Court at this stage but the petitioners should first exhaust the remedies under Secs. 40. 56 and 57. ILR (1962) Cut 121 (123 and 124) (Orissa).

(28) Case involving question whether document containing recital of gift of movables in the shape of money made eight years before would turn it into gift deed and attract stamp duty under item 33 in Schedule I — Case is a fit case for reference to High Court. AIR 1966 Punj 169 (173) = ILR (1969) 1 Punj 140 = 1965 Pun LR (Supp) 305.

(29) Order dismissing revision application under Section 56 (1) of Stamp Act (1899) — Application under Section 57 (1) for stating

Delhi:

In its application to the Union territory of Delhi, in Section 57, for clause (b), substitute the following:—

"(b) if it arises in the Union territory of Delhi, to the High Court of Delhi;

(bb) if it arises in the Union territory of Himachal Pradesh*, to the High Court of Punjab and Haryana up to and inclusive of the 30th April 1967, and to the High Court of Delhi thereafter;"—G.S.R. 1944, dated 30-10-1968, Gaz of Ind., 1968, Pt. II, Sec. 3 (i), Extra., p. 577.

[*] Himachal Pradesh has a separate High Court now—See Act 53 of 1970, S. 25 (25-1-1971).

Goa, Daman and Diu.

(g) Same as (f) in Dadra and Nagar Haveli.—Regn. XI of 1963, Section 2 and Sch.

Note.—Goa has a Judicial Commissioner's Court now under Act XVI of 1964, with effect from 16-12-1964.

Gujarat:

In its application to the State of Gujarat, in Section 57, after sub-section (1), insert the following:—

(a) "(1A) Notwithstanding anything contained in sub-section (1) any person aggrieved by the Chief Controlling Revenue Authority under section 56 regarding the amount of duty with which any instrument is chargeable may, if the amount of duty payable as a result of such decision in a case where the instrument is not charged with any duty or the amount required to make up such duty in a case where the instrument is charged with insufficient duty, exceeds rupees two thousand, by application presented within a period of sixty days from the date of such decision and accompanied by a fee of rupees

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Section 57 — Note 1 (contd.)

case to High Court not made — Order could not be set aside by writ of certiorari — But High Court could direct Chief Controlling Revenue Authority to state case under Section 57 (1) though no matter was pending before it. AIR 1966 Punj 169 (171, 172 and 173) = 1965 Pun LR (Supp) 305.

(30) Reference to High Court on hypothetical question — High Court cannot accept reference in absence of actual case or document and in mere context of hypothetical case and document which may never eventuate. AIR 1967 Mad 10 (11) = (1966) 2 Mad LJ 320.

(31) Application for reference involving substantial question of law — Reference is competent whether case is pending or not. **AIR 1968 SC 497 (502, 503) = (1968) 2 SCJ 280. (1902) ILR 25 Mad 752 and AIR 1958 All 320 and AIR 1969 Cal 340: AIR 1932 Cal 736 (FB), Overruled; AIR 1918 All 181 (FB) and AIR 1958 All 417 (SB); AIR 1962 Mys 266 Impliedly Overruled.)**

(32) Case otherwise coming to notice of Chief Controlling Revenue Authority — Case coming to notice in exercise of revisional powers under Section 56 (1) is such a case — Reference to Court can be made only when case is pending before revenue authority. AIR 1966 Punj 169 (171 and 172) = ILR (1966) 1 Punj 140 ** AIR 1968 Delhi 219 (222).

(33) The power contained in Section 57 is in the nature of an obligation or is coupled with an obligation and in an appropriate case can be demanded to be used also by the parties affected by the assessment of the stamp duty. AIR 1964 Mad 128 (128, 129) = 76 Mad LW 443.

(34) Jurisdiction of High Court — Court cannot go behind the facts as stated in reference. AIR 1966 Orissa 214 (219) = 32 Cut LT 237.

(35) Out of several matters Chief Controlling Revenue Authority referring some only to High Court — High Court cannot express opinion on matters not referred. AIR 1967 Andh Pra 90 (91) = (1966) 1 Andh LT 307.

(36) Powers of High Court in reference case by Chief Controlling Revenue Authority not limited to questions suggested in reference — It can consider all questions of jurisdiction and law raised by case. **AIR 1971 All 70 (73) = 1970 All WR (HC) 700 (FB).**

(37) Reference of case by Chief Controlling Revenue Authority — Omission to refer question of jurisdiction of Collector to act under Section 33 — High Court itself can raise it. **AIR 1971 All 70 (75) = 1970 All LJ 1216 (FB).**

(38) In a proper case, the officer is bound to make a reference — Compulsion by issue of writ possible. AIR 1970 Mad 148 (151) = (1969) 1 Mad LJ 418.

(39) In an appropriate case the High Court can and should issue a writ to direct the Board of Revenue to make a reference. AIR 1964 Mad 128 (129) = 76 Mad LW 443.

(40) Board in reference under Section 56 (2) adjudicating upon nature of document about which there was dispute between petitioner and registering authority without giving hearing to petitioner — Board was under duty to refer case to High Court under S. 57 (1) — High Court could by issue of writ of mandamus order Board to direct reference. AIR 1966 Mad 36 (37 to 39) = (1965) 1 Mad LJ 431.

(41) Powers of High Court — Prior application for writ of certiorari dismissed — Another application for writ of prohibition or mandamus can be entertained. AIR 1955 Mad 304 = (1955) 1 Mad LJ 8 (DB).

one hundred, require the Chief Controlling Revenue Authority to draw up a statement of the case and refer it to the High Court; and the Chief Controlling Revenue Authority shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Chief Controlling Revenue Authority may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days."; and

(b) after sub-section (2), insert the following sub-section:—

"(2A) The costs of any reference to the High Court made under sub-section (1A), which shall not include the fee for making the reference, shall be in the discretion of the High Court."—Gujarat Act XIX of 1965, Section 11 (18-6-1965).

Himachal Pradesh:

Omit clause (bb) in relation to Himachal Pradesh as was inserted by G.S.R. 1946 of 1968—Him. Pra. A.L.O., 1973, Him. Pra. Gaz., 20-1-1973, Extra., p. 93.

Pondicherry:

In its application to the Union territory of Pondicherry, in Section 57, in sub-section (1), omit "and" at the end of clause (d) and put it at the end of clause (e) and after clause (e), insert the following:—

"(ee) if it arises in the Union territory of Pondicherry, to the High Court of Madras".—Act XXVI of 1968, Section 4 and Schedule, Pt. II.

Rajasthan:

In its application to the whole State of Rajasthan on and from the first day of April, 1958, in Section 57,—

(a) after the words "opinion thereon", insert the words "to the High Court for the State of Rajasthan"; and

(b) omit clauses (a) to (g).—Raj. Act XI of 1958, Section 3 (xvii).

58. Power of High Court to call for further particulars as to case stated.— If the High Court *[* ° °] is not satisfied that the statements contained in the case are sufficient to enable to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

[1879—S. 47; 1869—S. 41 (c).]

[*] The words "Chief Court or Judicial Commissioner's Court" were omitted by A.C.A.O., 1948.

59. Procedure in disposing of case stated.—(1) The High Court °[° ° °], upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the Revenue-authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the

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Section 59 — Note 1

(1) Section lays down the procedure to be followed by the High Court in disposing of the case stated by the Chief Controlling Revenue-authority under Section 57. AIR 1926 Bom 51 (52).

(2) Case must be decided under Section 57 (2) which is mandatory, by a Bench of at least three Judges of the High Court. **AIR 1930 Bom 392 (393) (FB).**

(3) The High Court's jurisdiction under Section 59 is essentially advisory and not original. AIR 1948 Bom 254 (257) (DB).

(4) Abstract question not necessary for the disposal of any particular case can neither be referred to nor decided by the High Court. **AIR 1932 Cal 736 (736, 737) (SB).**

(5) High Court can only decide the question actually propounded by the Chief Controlling Revenue-authority and cannot go into questions disposed of by such authority. **AIR 1942 Lah 257 (259) (SB) ** AIR 1967 Andh Pra 90 (92) = (1966) 1 Andh LT 307 (FB).** (Chief Controlling Revenue Authority has to formulate questions.)

(6) Letter of guarantee issued by Bank in favour of President of India on behalf of client — Decision taken by competent Authority as to valuation of document for stamp duty — Government disagreeing and referring case to High Court — Reference to High Court not competent, as the decision rendered by competent Authority is not subject to control of Government. **AIR 1973 Ker 69 (72 to 74) = 1971 Ker LJ 399 (FB).** (Case under Kerala Stamp Act.)

Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

[1879—S. 48; 1869—S. 41 (d).]

[*] The words "Chief Court or Judicial Commissioner's Court" were omitted by A.C.A.O., 1948.

STATE AMENDMENT

Gujarat:

In its application to the State of Gujarat, in Section 59, for sub-section (2), substitute the following:—

"(2) The High Court shall send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue Authority; and the amount of duty chargeable on the instrument in respect of which the reference was made shall be in accordance with such judgment."—Guj. Act XIX of 1965, Section 12 (18-6-1965)..

60. Statement of case by other Courts to High Court.—(1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court *[* * *] to which, if he were the Chief Controlling Revenue-authority†, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue-authority† and another

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Section 60 — Note 1

(1) Section provides for a reference to the High Court by a Court just as Section 57 provides for such reference by the Chief Controlling Revenue-authority. **1906 Pun LR No. 131 p. 428 (430) (FB).**

(2) After trial Court admitted document in evidence appellate Court feeling doubt as to duty chargeable on such document — It cannot proceed under this section, but can only do so under Section 61. sub-section (2). **AIR 1935 Mad 382 (383) (SB) ** (1888) 11 Mad 38 (38) (SB).** (Judge of subordinate Court feeling no doubt as to amount of duty to be paid and not asking District Court to have case referred to High Court — District Court cannot itself make reference under sub-section (1).)

(3) In order that this section may apply the Judge desiring to make the reference must feel doubt as to the amount of duty to be paid. **1906 Pun LR No. 131, p. 428 (430) (FB)** (Doubt must relate to amount of duty to be paid in respect of instrument under proviso (a) to Section 35.) ** **(1888) 11 Mad 38 (38) (SB) ** AIR 1933 Oudh 226 (227) (SB).** (Court sending instrument to Collector under Section 38 — Collector under Section 40 certifying that document is duly stamped — Court cannot re-open question by making reference under this section.) ** **(1940) 15 Luck 318 (319) (FB).** (Do.) ** AIR 1969 Manipur 23 (27).

(4) Judge definite as to law applicable — Reference cannot be made merely on ground of absence of authority of his High Court. **AIR 1932 Lah 172 (173) (SB).**

(5) Judge definite as to law applicable — Reference cannot be made merely because point refused is "not altogether free from doubt". **1883 Bom PJ 334 (FB).**

(6) If a Court holds that a certain document is a promissory note it cannot make a reference under this section even if it feels doubt as to the amount of duty to be paid in respect of it. **1883 Pun Re No. 195, p. 586 (588) (FB).**

(7) Question whether a certain document is a promissory note or an instrument evidencing an agreement to secure the repayment of a loan made upon the deposit of title deeds and if latter, what is the amount of duty chargeable on it is one that comes within the purview of the section. 1891 Bom PJ 284 (DB). (Question whether instrument chargeable with adhesive stamp can be admitted in evidence on payment of deficient duty and penalty or question whether adhesive stamp affixed to instrument chargeable with impressed stamp can be taken into calculation in fixing amount of duty and penalty payable on it cannot be referred under section.)

(8) Question whether a certain document is a bond and what amount of duty is payable on it comes under the section. **AIR 1922 Cal 452 (453) (FB).** (Judge already determined to make reference before levy of duty and penalty but actual reference framed after such levy — Reference held competent.)

(9) Reference under this section cannot be made after an instrument has been impounded and sent to the Collector under the provisions of Section 38, sub-section (2) and his certificate obtained under Section 40. **1906 Pun LR No 131, p. 428 (430) (FB) ** AIR 1938 Oudh 226 (227) (SB) ** (1940) 15 Luck 318 (319) (FB).**

(10) Reference under this section will not abate by reason of the death of the party after such reference. **AIR 1938 Pat 33 (33) (SB).**

(11) On reference under Section 60, the broad question that falls to be decided is whether or not the instrument is sufficiently stamped. **AIR 1941 All 243 (248) (FB).**

like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

[1879—Section 49.]

[°] The words "Chief Court or Judicial Commissioner's Court" were omitted by A.C.A.O., 1948.

[†] For definition, see General Clauses Act, 1897 (X of 1897), Section 3 (10).

61. Revision of certain decisions of Courts regarding the sufficiency of stamps°.— (1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

SECTION 61 — SYNOPSIS

1. Scope and object.
2. Instruments to which this section applies.
3. "Makes any order admitting any instrument in evidence."
4. Courts empowered to act under this section.
5. Application by Collector.
6. "May record a declaration."
7. "Determine the amount of duty."
8. Order under sub-section (2), if final.
9. Prosecution by Collector.

1. Scope and object.— (1) Section 61 provides for revising the decisions of subordinate Courts regarding the sufficiency of stamp duties paid on instrument. AIR 1957 Him Pra 23 (24).

(2) It is not open to the appellate Court under Section 61 to reject a document as inadmissible in evidence owing to its not being duly stamped, after the document has once been admitted by the trial Court. AIR 1957 Him Pra 23 (24, 25).

(3) This is the only section under which the admission of an instrument in evidence can be called in question on the ground that it has not been properly stamped. **(1885) 8 Mad 564 (566) (SB)** ** AIR 1921 Cal 613 (614) (DB) ** AIR 1919 Cal 235 (239) (DB) ** **(1889) 13 Bom 449 (457) (FB)** ** AIR 1923 Nag 109 (110).

[See however (1880) 2 All 554 (559) (DB).]

(4) Section does not affect the provisions of Section 36. AIR 1925 Mad 1215 (1215) (DB) ** AIR 1960 Andh Pra 155 (160) ** AIR 1953 Hyd 14 (Pr 14) (DB) ** (1910) 7 Ind Cas 582 (583) (DB) (Cal). (Object of section is protection of Government revenue.)

(5) The object of Section 61 is the protection of the Government revenue. AIR 1960 Andh Pra 155 (160) ** AIR 1958 Pat 434 (437) ** AIR 1957 Him Pra 23 (24, 25) ** AIR 1953 Hyd 14 (18) (DB).

(6) For the protection of its revenue Government empowers an appellate Court or a Court of reference, of its own motion or on the application of the Collector, to take into consideration the order of a subordinate Court and to ascertain whether Government revenue has suffered and whether a higher duty and penalty than that required by the Court of first instance ought to have been demanded. (1886) 12 Cal 64 (66, 67) (DB) ** **(1902) 25 Mad 752 (758) (SB).** (Appellate Court cannot reject a document as inadmissible owing to its not being duly stamped, after document has once been admitted by trial Court.) ** AIR 1951 Pat 625 (Pr 3) (DB).

(7) A private party who has paid excess duty or penalty has no locus standi to apply under this section for refund of the same as the section is not concerned with refund of excess duty or penalty. AIR 1951 Pat 625 (Pr 3) (DB).

(8) After a document has been admitted in evidence by the trial Court, the appellate Court can act, if at all, only under this section. **AIR 1935 Mad 382 (383) (SB).**

(9) Document admitted in evidence — Judgment delivered — Court admitting document cannot reopen question of admissibility of document and impound document — Only remedy, if any, is under this section. AIR 1937 Mad 763 (764) ** AIR 1949 Nag 214 (215) ** **AIR 1970 Madh Pra 74 (78) = 1969 MPLJ 827 (FB)** ** AIR 1957 Madh Pra 206 (206) = 1957 MPC 228 ** 1956 MPLJ (Bhopal) 188.

(10) Chief Controlling Revenue Authority is not a necessary party to a proceeding under

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

[1879—S. 50.]

[*] The object of the section is to protect the revenue and it does not affect the provisions of Section 36 supra.

Section 61 — Note 1 (contd.)

this section. AIR 1945 Nag 178 (179) ** AIR 1943 Nag 97 (98).

(11) Section 61 does not authorise any Court of appeal to direct its office "to do the needful and send necessary intimation to the Collector" for the purpose of realisation of stamp duty and penalty. Such an order is entirely without jurisdiction. **AIR 1961 Cal 39 (42) (FB).**

2. Instruments to which this section applies.— (1) Section does not apply to promissory notes. etc., which are excepted under Proviso (a) to Section 35 and which, if not duly stamped, cannot be admitted in evidence even on the payment of penalty. AIR 1935 All 410 (411) ** **(1889) 13 Bom 449 (453) (FB)** ** **1883 Pun Re No. 195, p 586 (588) (FB)** ** AIR 1968 All 224 (229) ** AIR 1964 Assam 138 (140)

3. "Makes any order admitting any instrument in evidence."— (1) Section has no applicability in a case where the Court of first instance makes no order with regard to the stamp. 1908 Pun Re No. 108, p. 498 (500).

(2) Order under sub-section (1) may be an implied one. AIR 1936 Pesh 186 (188) ** **AIR 1966 All 393 (400) = 1966 All LJ 237 (FB).** (Mere endorsement on the instrument is sufficient within the meaning of "Order" in Sec. 61.)

[But see AIR 1935 Lah 909 (910) ** AIR 1946 Lah 265 (265, 266) (DB).]

(3) The expression 'admitted in evidence' stands in contradistinction to the expression 'tendered in evidence' or 'produced in evidence' It means making of a document a part of the judicial record. (1968) 38 Com Cas 620 (622) = ILR (1968) 1 All 394 (DB).

(4) Court allowed withdrawal of suit — It later on determined stamp duty and penalty payable on a document impounded — Appeal under Section 61 (1) does not lie since the court was not admitting document in evidence. 1970 BLJR 587 (591).

4. Courts empowered to act under this section.— (1) Court admitting an instrument in evidence on payment of duty and penalty cannot afterwards revise its own order and itself makes a declaration under sub-section (2). **(1885) 8 Mad 564 (566) (SB).** ** AIR 1963 All 376 = 1962 All LJ 702.

(2) It is open to the High Court as an appellate Court to impound a document admitted in the lower Court and call for the payment of the stamp duty and the compounding charges. AIR 1954 Assam 175 (Pr 3) (DB) ** **AIR 1966 All 392 (398) = 1966 All LJ 237 (FB).**

(3) Collector can make an application under this section to the High Court in respect of an order of a Small Cause Court admitting in evidence an insufficiently stamped instrument. **(1892) 15 Mad 259 (260. 261) (SB).**

(4) Collector cannot make an application to the High Court in reference to an instrument received in evidence by the Mamlatdar. **1897 Bom PJ 118 (FB).**

(5) Bond, basis of suit, endorsed by Court showing that it was admitted though no separate order admitting instrument made — Suit decreed — Appeal to High Court dismissed — Application under this section made to High Court by Collector — Application to High Court held competent. AIR 1936 Pesh 186 (188) ** AIR 1958 Pat 434 (437, 438).

(6) Appeal from decree of Sub-Judge lay to High Court but declaration under this section made by District Judge — Declaration made by District Judge held could be treated as declaration made by High Court. AIR 1935 Lah 909 (910).

(7) The expression "any order admitting any instrument in evidence as duly stamped" really means an order formally admitting a document in evidence. No formal or specific order admitting the document in evidence is required by law or rules or is contemplated by the section. AIR 1960 All 359 (360). (No document marked as exhibit by Court after alleged deficit duty and penalty was paid by plaintiff. No specific order made saying that Court was admitting document in evidence — Reference by Collector is competent under S. 61.) ** **AIR 1966 All 392 (396. 398) = 1966**

CHAPTER VII

CRIMINAL OFFENCES AND PROCEDURE

62. Penalty for executing, etc., instrument not duly stamped.—(1) Any person—

(a) drawing, making, issuing, endorsing, or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange °[payable otherwise than on demand], †[°] or promissory note without the same being duly stamped; or

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Section 61 — Note 4 (contd.)

All LJ 237 (FB). (Express order not necessary — Endorsement under Order 13, Rule 4, C. P. Code is sufficient.) (AIR 1931 All 353. **Overruled; AIR 1946 Lah 265, Dissented from).**

5. **Application by Collector.**— (1) A letter from the Collector is a sufficient compliance with the requirement of this section and a declaration will be given thereon. **AIR 1942 All 147 (148) (FB).**

6. **"May record a declaration."**— (1) No action can be taken under the section merely because the Collector moves the Court. AIR 1934 Oudh 344 (344) (DB) ** (1882) 4 Mad 137 (140) (DB).

(2) Sub-section (2) does not empower the appellate Court to make a declaration in the case of an instrument in respect of which an excess duty and penalty have been levied. (1933) Mad SM, p. 58. (Word "may" in sub-section (2) shows that power to record declaration is discretionary). ** AIR 1951 Pat 625 (Pr 3) (DB).

[See however AIR 1934 All 1052 (1053) (DB).]

7. **"Determine the amount of duty."**— (1) Court has to make a declaration as to the amount of duty as also the penalty. AIR 1936 Cal 556 (561) (DB) ** AIR 1924 Nag 408 (409) ** AIR 1924 Oudh 110 (110).

[But see AIR 1936 Lah 838 (839) ** AIR 1926 Cal 877 (879) (DB).)]

(2) Levy of the duty and penalty by the Court is illegal. AIR 1924 Oudh 110 (110).

[But see **1897 Bom PJ 382 (FB).**]

8. **Order under sub-section (2), if final.**— (1) High Court can entertain a revision under Section 115, Civil P. C. against the order of declaration of the lower Court made under this section. AIR 1943 Oudh 169 (171) ** AIR 1957 J and K 49 (49).

(2) Order of the Lower Court under this section cannot be made the subject of a reference to the High Court under Section 57. AIR **1934 Lah 666 (666) (SB).**

[But see (1933) Mad SM p. 58.]

9. **Prosecution by Collector.**— (1) When the Collector receives the copy of the declaration and the instrument, he may proceed to prosecute the person liable to pay the duty and penalty as adjudged by the appellate Court if he does not pay the same; or even when he makes such payment, if the Collector thinks that such person has committed an offence against the Stamp-law with an intention of evading payment of the proper duty. **(1902) 25 Mad 752 (757, 758, 759) (SB).** (Nothing contained in order admitting instrument in evidence, or in any certificate granted under Section 42, or in Section 43, has any validity against such prosecution.)

(2) It is for the Collector to determine whether prosecution should be instituted or not irrespective of any action by the appellate Court under sub-section (2). AIR 1926 Oudh 397 (397) (DB). (Application under this section by Collector — No notice to person liable is required to be issued.)

(3) Appellate Court refusing to make declaration under this section in respect of document admitted in evidence by lower Court on payment of duty and penalty — Section 48 will apply and Collector can prosecute for stamp offence provided it appears to him that offence was committed with intention of evading Stamp-law. (1933) Mad SM p. 58.

(4) Levy of stamp duty and penalty — Person who has not signed document and undertaken any obligation under it is not liable for stamp duty and penalty. AIR 1962 Mad 425 (426).

SECTION 62 — SYNOPSIS

1. Mens rea.
2. Abetment of offences under this Act.
3. Sanction of the Collector.
4. "Person."
5. Corporation.
6. Liability of Master for act of servant.
7. "Accepting."
8. "Receiving the payment of."
9. Clause (b) — Scope.
10. "Executing."
11. "Signing otherwise than as a witness."
12. "Instrument chargeable with duty."
13. Receiving an unstamped instrument is no offence.
14. Proviso.
15. "Shall be punishable."
16. Ignorance of law.
17. Imprisonment in default of fine.

1. Mens rea.— (1) Offence under the section is complete as soon as the act specified therein is done, irrespective of any intention on the part of the offender or knowledge that this act would cause a wrongful loss of revenue to the Government. AIR 1934 All 201 (203) (DB) ** (1909) 31 All 36 (38) (DB) ** (1871) 6 Mad HCR (App) 5 (5) ** (1889) 12 Mad 231 (233).

(2) Guilty intention or its absence may be taken into account at the time of passing the sentence. AIR 1934 All 201 (203) (DB) ** (1909) 31 All 36 (38) (DB) ** AIR 1933 Oudh 461 (461. 462) ** **(1877) 2 Cal 399 (403) (FB).** (Collector is not bound to offer any evidence

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped;

shall, for every such offence, be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

[1879—S. 61; 1869—Ss. 29, 30; 1862—Ss. 3, 11, 23; 1860—Ss. 3, 9.]

[*] Inserted by the Indian Finance Act, 1927 (V of 1927), Section 5.

[†] The word "cheque" was omitted, ibid.

Section 62 — Note 1 (contd.)

of intention or even to state reasons which induced him to prosecute.)

(3) Instrument impounded and sent to Collector under Section 38 — Duty and penalty paid to Collector under Section 40 — Offender cannot be prosecuted unless it appears to Collector that accused has acted with intention of evading payment of stamp duty. AIR 1919 All 40 (41).

[See also AIR 1956 Mad 454 (458) (DB). (Sections 17 and 62 show that the agreement between the parties and the provisions of Sections 29 and 44 are applicable only between the parties leaving the Collector's right under Sections 40 and 48 unaffected.)]

2. Abetment of offences under this Act.— (1) Merely accepting or receiving an unstamped or insufficiently stamped instrument is not an abetment of an execution of such instrument. (1883) 7 Bom 82 (83) (DB) ** 1895 Pun Re Cri No. 18, p. 55 (56) ** 1884 All WN 37 (37) ** (1898) 20 All 440 (442) ** (1905) 1 Nag LR 163 (164).

[But see (1900) 23 Mad 155 (158) (DB).]

(2) Person paid sum of money to his creditor who, on being asked for receipt, said that he could not give stamped receipt as he had no stamp and person accepted unstamped receipt promising to affix stamp himself — Person prosecuted for abetment of offence under this section. — **Held** that he was not guilty. (1885) 8 All 18 (19).

(3) Creditor getting the entries of the debts in his account book signed by the debtors by way of acknowledgment of the debt due without applying a proper stamp thereto is guilty of abetting the offence under this section. 1876 Pun Re (Cri) No. 23 p. 37 (40) (DB) ** 1885 All WN 30 (30) ** (1897) 10 CPLR (Cri) 1 (5, 6) ** AIR 1934 Nag 261 (263).

(4) Purchaser of gold ornaments got entries of transaction written in his account book by sellers of ornaments, who also stated in entry that they had received price — Purchaser in obtaining entries without applying proper stamp held guilty of abetment of offence. AIR 1934 All 201 (203) (DB).

3. Sanction of the Collector.— (1) Prosecution without sanction under Section 70 is illegal. (1870) 2 NWPHCR 188 (188) ** (1887) 9 All 210 (212, 213).

(2) In the case of instruments mentioned in sub-section (1) (b) if the penalty has been paid, no prosecution can be instituted unless it appears that the offence has been committed with intention of evading stamp duty. 1876 Pun Re (Cri) No. 23, p. 37 (40) (DB) ** (1882) 8 Cal 259 (262) (DB).

(3) Collector is not required to make formal enquiry or to record any proceedings for granting a sanction. (1884) 7 Mad 537 (539) (DB).

(4) In cases of non-payment of penalty under Ch. IV prosecution can be sanctioned whether or not the intention is made out. 1933 Mad SM, p. 59 (59). (Citing B. P. 3189, 17th November 1879.)

(5) Collector should not himself, as a Magistrate, try the person accused of an offence under the Act. (1880) 2 All 806 (807) ** (1878) 3 Cal 622 (622).

4. "Person."— (1) Word "person" would include members of a trading partnership. (1900) 27 Cal 324 (333) (DB).

5. Corporation.— (1) In cases where the question of mens rea is immaterial, a corporation acting through its servants and agents can be held criminally responsible and liable for penalty. 1902-2 KB 1 (11) = 71 LJKB 656 ** **AIR 1955 Bom 79 (80) = 56 Bom LR 525 (SB).**

6. Liability of master for act of servant.— (1) Offence not involving any guilty intent or knowledge as one of its ingredients — Master is held liable for acts of his servants. 1895 1 QB 742 (746, 748) = 64 LJ QB 448 ** 1902-2 KB 1 (11) = 71 LJKB 656. (Offence requiring particular kind of guilty intent or knowledge — Master cannot be held liable.)

(2) Question as to the master's guilt is one of construction with reference not merely to the language of the enactment but also to its subject-matter and object. (1907) 31 Bom 611 (627) ** (1912) 34 All 319 (321) (DB) ** (1900) 24 Bom 423 (426) ** (1912) 39 Cal 682 (685) (DB).

[But see AIR 1919 Cal 539 (540) (DB).]

(3) Servant in course of his employment giving unstamped receipt for amount exceeding Rs. 20 — Master can be held guilty of offence. (1900) 27 Cal 324 (333) (DB).

[But see (1904) 8 Cal WN 378 (380).]

7. "Accepting."— (1) Term "accepting" in Clause (a) means "executing as an acceptor."

Section 62 — Note 7 (contd.)
(1884) 7 Mad 71 (73) ** 1887 Pun Re (Cri) No. 12, p. 23 (24) (DB) ** 1891 Pun Re (Cri) No 11, p. 35 (36) ** (1896) 20 All 440 (442) ** 1903 All WN 174 (174).

(2) A person who merely receives an unstamped promissory note and puts it in suit is not guilty of any offence. (1884) 7 Mad 71 (73) ** (1898) 20 All 440 (442). (Nor is such receiving abetment of its execution.) ** (1875) 24 Suth WR (Cri) 1 (2) (DB).

8. "Receiving the payment of."— (1) Receiving payment of promissory note means receiving actually the money due under the note and not receiving the note itself. 1903 All WN 174 (174).

9. Clause (b) — Scope.— (1) Offences under this clause and that under Clause (a) of Section 64 are not respectively a minor and major offence and it cannot be presumed that a sanction to prosecute an offence under Section 64, Clause (a) is by implication a sanction to a prosecution under this clause. AIR 1933 Lah 959 (959).

10. "Executing."— (1) Parties, whose signatures are not even necessary to an award are not liable even if they sign an unstamped award. (1910) 32 All 198 (200). (Word "executing" must be taken to mean very much same as "signing" and this signing must be such as would complete document and give it full legal effect.) ** AIR 1928 Nag 166 (169) [But see AIR 1924 Nag 204 (206, 207).]

(2) Persons executing do not include persons who have signed but have not incurred any obligation under document such as witnesses, persons in whose favour document is executed. Such persons cannot be proceeded against. AIR 1956 Mad 454 (458) (DB) ** AIR 1962 Mad 425 (426).

(3) Offence — Document in respect of lands styled 'dakhal' — Document registered as settlement deed — Document however shown to be only partly sale deed and partly settlement deed — Deficit stamp duty and penalty not paid — Vendor and vendees proceeded under S. 62 (1) (b) — Document executed by vendor only — He is hence liable under that section — Document neither executed by vendees nor signed by them in any capacity other than that of a witness — They cannot be convicted under Section 62 (1) (b). 1970 Cri LJ 276 (280) (Andh Pra).

(4) In a proceeding under Section 62 (1) (b) of the Stamp Act the onus is on the prosecution to prove all the requisites of the offence under that section. The criminal Court has in such a proceeding, the jurisdiction to go into the question of the nature of the document in issue, on a consideration of the recitals and other material on record. 1970 Cri LJ 276 (280) (Andh Pra).

11. "Signing otherwise than as a witness."— (1) Ordinary agent authorised to sign on behalf of his principal is liable under this section. (1900) 27 Cal 324 (332) (DB).

(2) Arbitrator signing award directing partition — Instrument of partition if not duly stamped arbitrator is liable to be prosecuted as person "signing otherwise than as a witness." AIR 1924 Oudh 240 (240).

(3) It is not every person who signs otherwise than as a witness that is liable to a prosecution under this section. (1910) 32 All 198 (200).

(4) Writing of document under instructions is not making of it by the writer. (1868) 3 Mad HCR (App) 27 (28, 29). (Instrument is complete without signatures of attesting witnesses which do not form any part of it.)

(5) Merely engrossing an instrument chargeable with duty on an unstamped paper is not an offence under this section. (1863) 1 Bom HCR (Cri) 37 (38) ** (1866) 2 Bom HCR (Cri) 129 (129) (DB).

(6) A person who signs as a witness an instrument chargeable with duty but not duly stamped is not guilty of any offence. **AIR 1936 Lah 449 (452) (SB)** ** (1866) 2 Bom HCR (Cri) 129 (129) (DB).

12. "Instrument chargeable with duty."— (1) No offence can be held as proved unless it is shown that the instrument in question is "chargeable with duty." 1883 Pun Re (Cri) No. 31, p. 78 (79) (DB).

(2) Document purported to be agreement for lease whereby no rent was reserved and no premium was paid or money advanced — Executant of document held did not commit any offence in not stamping same. AIR 1916 Pat 250 (251) (DB).

(3) Petition stating terms of compromise between parties and praying for decree does not require engrossed general stamp. AIR 1918 All 307 (308) (DB).

(4) Servant under instructions from employer receiving money from co-servant and passing voucher that money was received — Document is not receipt requiring one anna stamp. AIR 1917 Oudh 151 (151).

(5) Witness in criminal case filed document in Court acknowledging receipt of Rs. 21 as his diet money and was prosecuted under this section for passing receipt without stamp — Prosecution held illegal. AIR 1933 Oudh 51 (52) = 8 Luck 164 (DB).

(6) Instruments which are exempted from stamp duty by the provisions in the Act are not "chargeable with any duty" and no prosecution lies for omission to stamp the same. AIR 1934 All 201 (203) (DB) ** AIR 1937 All 190 (192) ** AIR 1924 All 578 (578).

(7) A receipt for an amount exceeding Rs. 20 is "an instrument chargeable with duty" and a person executing the same without a proper stamp is guilty of an offence under this section. **(1885) 8 Mad 11 (13) (SB)** ** (1909) 31 All 36 (37) (DB).

(8) A person who gives an unstamped receipt and refuses to give a stamped one even on demand commits two offences under Sections 62 and 65 respectively in respect of the same transaction. AIR 1933 Bom 462 (463) (DB).

(9) Sarkhat written from time to time and left in hands of debtor — It showed on one side sums of money advanced and on opposite side various sums repaid by debtor — Account finally closed — Balance of Rs. 50 paid and one receipt stamp attached and signed by creditor — Creditor held guilty of offence under this clause in respect of each such entry by omitting to stamp it. (1913) 35 All 290 (291).

(10) Proposal for loan in prescribed form of a Bank — Approval by manager with a recommendation of a particular rate of interest — Loan granted and a separate bond executed — Manager prosecuted under Section 62 (1) (b) for signing an agreement as to

63. Penalty for failure to cancel adhesive stamp.—Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section*, shall be punishable with fine which may extend to one hundred rupees.

[1879—S. 62; 1869—Ss. 31, 33; 1862—Ss. 8, 11; 1860—Ss. 6, 9.]

[*] No mens rea or criminal intent is necessary for offence under this section.

64. Penalty for omission to comply with provisions of section 27.—Any person who, with intent to defraud the Government*,—

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

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Section 62 — Note 12 (contd.)

interest without a stamp — **Held**, the proposal with the endorsement by the manager amounted only to negotiations leading to execution of the bond and that no stamp was necessary. AIR 1918 Cal 495 (496) (DB).

13. Receiving an unstamped instrument is no offence.— (1) Persons like a donee under an unstamped deed of gift or a creditor holding an insufficiently stamped bond or a purchaser under a conveyance which is not duly stamped are not liable to be prosecuted. (1871) 6 Mad HCR (App) 5 (5). (Donee.) ** 1880 Pun Re (Cri) No 40, p. 95 (96) (DB). (Creditor.) ** (1907) 77 LJKB 55 (59) = 97 LT 814. **(Reversing** (1903) 2 KB 834 — Purchaser)

14. Proviso.— (1) Criminal Court trying an offence under this section cannot realise the penalty previously imposed by the Collector under Chap. 4. (1897) 10 CPLR 1 (6).

15. "Shall be punishable."— (1) Mere fact that a prosecution has been instituted does not bind a Magistrate in any way so far as the amount of penalty is concerned. **(1877) 2 Cal 399 (403, 404) (FB).**

16. Ignorance of law.— (1) Ignorance of law does not render the accused immune from conviction under this section although it can be taken into account in passing sentence. AIR 1934 All 201 (203) (DB).

17. Imprisonment in default of fine.— (1) Offence under this section being punishable with fine only. Section 67, Penal Code. does not authorise a sentence of rigorous imprisonment to be passed in default of payment of fine. 1880 Pun Re (Cri) No. 40, p. 94 (95) (DB) ** (1898) 20 All 440 (441).

(2) Document registered as settlement deed — Document however partly a sale deed and partly settlement deed — Document executed by vendor — Offence taking place about nine years prior to proceeding under Section 62 (1) (b) against vendor — Accused-vendor old lady — Hence fine of Rs. 50 will meet ends of justice. 1970 Cri LJ 276 (280) (Andh Pra).

Section 63 — Note 1

(1) Accused may be convicted both under this section as well as under Section 62. (1913) 35 All 290 (291).

(2) Prosecution under this section sanctioned by Collector under Section 70 but facts found at trial disclosed offence under Section 62 and not under this section — Accused held should not be convicted under Sec. 62 on basis of same sanction. (1887) 9 All 210 (212, 213).

Section 64 — Note 1

(1) Intent to defraud is an essential ingredient of the offence under this section. (1889) 12 Mad 231 (233, 234) (DB). (Executant of partition-deed in which value of property is grossly undervalued commits offence under clause (a).)

(2) Proof of an intention to defraud Government of its stamp revenue is necessary for a conviction under this section. AIR 1940 Lah 274 (274) ** AIR 1953 Mad 941 (942). (Mere non-payment of proper stamp duty does not make person liable to prosecution.) ** AIR 1933 Lah 959 (959, 960). (It cannot be presumed that sanction to prosecution under Section 64 (a) is sanction by implication under Section 62 (b).) ** 1937 Mad WN 1071 (1072). (Mere fact that person sells his property for less than what it is worth is not offence under Cl. (a).) ** (1928) 29 Cri LJ 397 (399) (Pat). (Mere non-payment of proper stamp duty does not make person liable to prosecution.) ** AIR 1918 Cal 113 (113) (DB) (Do.)

(3) Where after a settlement deed has been registered the information is received that the valuation of the property shown in the deed is an under-valuation and that the legitimate stamp duty has been intentionally evaded to defraud the State, it is open to the Registrar to initiate prosecution under this clause. AIR 1953 Mad 941 (942) = 1953 Cri LJ 1756.

(4) In a prosecution under this clause the burden is on the prosecution to show affirmatively that terms of Section 27 have not been complied with. The accused is entitled to rely upon the evidence that has been produced on behalf of the prosecution to urge that such evidence does not establish the guilt. AIR 1953 Mad 941 (942) = 1953 Cri LJ 1756.

(5) Clause (b) of Section 64 is not restricted to the scribe of the instrument but is wide enough to reach and punish the person who is in truth the author of the deed and is responsible for it though be writes the

(c) does any other act calculated to deprive the Government* of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

[1879—S. 63; 1869—Ss. 34 (c), 35; 1862—S. 51; 1860—Ss. 35, 36.]

[*] See also the Calcutta Improvement Act, 1911 (Beng. V of 1911), Section 82 (3); the Madras City Municipal Act, 1919 (Mad. IV of 1919), Section 136; the Madras District Municipalities Act, 1920 (Mad. V of 1920), Section 116-B; the Madras District Boards Act, 1920 (Mad. XIV of 1920), Section 110-B; the Nagpur Improvement Trust Act, 1936 (C. P. and Berar XXXVI of 1936), Section 77 (3): Andhra Pradesh Gram Panchayats Act, 1964 (Andh. Pra. Act II of 1964), Section 73 (2) (b): Assam Municipal Act, 1957 (Assam Act XV of 1957); B. and O. Municipal Act, 1922, Section 162-A: M. P. Municipal Corporation Act, 1956, Section 133-A: M. P. Municipalities Act, 1961, Section 161: M. P. Panchayats Act, 1962, Section 162: Andhra Pradesh Municipalities Act, 1965 (Andh. Pra. Act VI of 1965), Section 121; Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Maha. Act V of 1962), Section 158, Delhi Municipal Corporation Act, 1957 (58 of 1957), Section 148: Tamil Nadu Panchayats Act, 1958 (T. N. Act XXX of 1958), Section 124.

STATE AMENDMENT

Tamil Nadu:

After Section 64, insert the following:—

"**64-A. Recovery of amount of deficit stamp duty.—(1)** Where any person liable to pay duty under this Act is convicted of an offence under s. 64, in respect of any instrument (not being an instrument specified in Entry 91 of List I in the Seventh Schedule to the Constitution), the Magistrate shall, in addition to punishment which may be imposed for such offence, recover summarily and pay over to the Collector, the amount of duty, if any, due under this Act from such person in respect of that instrument and the Collector shall thereupon certify by endorsement on the instrument that proper duty has been levied in respect thereof:

Section 64 — Note 1 (contd.)

deed through the hand of another person. AIR 1953 Mad 941 (943) = 1953 Cri LJ 1756.

(6) A person who is the moving spirit in the matter of sale and who is the real purchaser though the deed is nominally taken in the name of another and who engineers the whole thing and arranges for the wording of the sale-deed, is a person concerned in or about the preparation of the instrument. AIR 1953 Mad 941 (943) = 1953 Cri LJ 1756.

(7) The words "with intent to defraud the Government" govern Clause (b) also and hence a scribe who scribes the deed without any knowledge of the fraud does not commit an offence under this clause. AIR 1953 Mad 941 (943) = 1953 Cri LJ 1756.

(8) The collector may, if he finds that the document in question is undervalued, proceed under Section 64. AIR 1960 Pat 470 (472) (DB).

(9) For failure to comply with Section 27, a person would be liable to prosecution under Section 64. AIR 1961 Madh Pra 6 (8).

(10) Words "any other act" in Clause (c) mean an act of a like nature to those which are specified in Cls. (a) and (b) of the section. AIR 1917 Cal 665 (666) = 44 Cal 321 (DB). (Mere fact that person puts stamp on document which he knows is not of proper value does not bring his case within Section 64 (c).)

[But see AIR 1934 Nag 261 (262, 263).]

(11) Essential ingredients of an offence under Section 64 (c) are that there was an intent to defraud the Government and that with such intent some act was done which was calculated to deprive the Government of stamp duty. 1903 All WN 173 (174).

(12) Amount of consideration or value of property on basis of which duty is payable not stated or wrongly stated in deed — Collector cannot hold inquiry and determine amount of consideration or value of property with view to levy proper stamp duty — Only remedy if contravention of Section 27 is due to intent to defraud Government of revenue, is to prosecute person under this section. **AIR 1945 Lah 69 (75) (SB) ** AIR 1922 All 82 (83) (FB).**

(13) Conviction under Section 64 is not illegal because the Collector has not followed the procedure under Sections 40 and 43 before sanctioning prosecution under this section. (1889) 12 Mad 231 (233, 234) (DB) ** (1910) 32 All 171 (175) (DB). (Person executing sale-deed in which consideration is shown as Rs. 1000 while real consideration is Rs. 20,000 is guilty of offence under Cl. (a).)

(14) Specific mention of Sections 27 and 64 in Section 116-B of Madras District Municipalities Act would lead to inference that legislature did not contemplate application of Section 35 of Stamp Act to levy and collection of transfer duty under Madras Act. AIR 1969 Andh Pra 417 (421) = 1969 Cri LJ 1476.

Provided that if the person referred to in this sub-section has already paid any amount towards the duty payable under this Act in respect of the instrument in relation to which such person was convicted, the Magistrate shall recover only the difference in the amount of duty.

(2) The amount recoverable under sub-section (1) shall be recovered by the Magistrate, as if it were a fine imposed under the Code of Criminal Procedure, 1898."—T. N. Act X of 1973, Section 2 (27-2-1973).

65. Penalty for refusal to give receipt, and for devices to evade duty on receipts.—Any person who,—

(a) being required under section 30 to give a receipt, refuses or neglects to give the same; or

(b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

[1879—S. 64; 1869—S. 27 (b); 1862—S. 29; 1860—S. 15.]

66. Penalty for not making out policy, or making one not duly stamped.—Any person who—

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

[1879—S. 65.]

Section 65 — Note 1

(1) Obligation to give a receipt arises only on demand for the same by the payer. 1903 All WN 173 (174) ** 1884 All WN 164 (164).

(2) In order to bring home the charge under this clause it must be proved that there was a demand by the payer for a receipt. (1900) 27 Cal 324 (332) (DB). (Strict proof of this requisition is quite as essential to conviction as proof of refusal (or neglect.))

(3) If there is no demand from the person from whose pocket the money was paid the refusal of the payee to give a receipt is not an offence under Clause (a). AIR 1933 Bom 462 (464) (DB) ** AIR 1963 Oudh 51 (51, 52). (Certificate given by witness to Court certifying receipt of particular sum from one of parties is not receipt.)

(4) To constitute a receipt there must be an acknowledgment either express or implied of the receipt and not a mere statement that certain money was received by a certain other person. (1899) 23 Bom 54 (56).

(5) Immoveable property exceeding Rs. 20 in value made over by debtor to creditor in satisfaction of pre-existing liability — Creditor not bound under Section 30 to pass receipt to debtor — His refusal to pass receipt will not amount to offence under Clause (a). AIR 1932 Nag 172 (172).

(6) Refusal to give a properly stamped receipt for payment out of Court of money due under a decree for rent of an agricultural holding will amount to an offence under Clause (a). (1909) 31 All 36 (37) (DB).

(7) Money remitted by postal money order and payee signed receipt in duplicate on post office form — He cannot be legally compelled to give further stamped receipt to payer and his refusal to give such stamped receipt on demand by payer will not amount to offence under Clause (a). (1912) 34 All 192 (196) (DB).

(8) Knowledge of the accused is not an element of the offence under Clause (a). (1900) 27 Cal 324 (331, 333) (DB). (Term "person" includes members of trading partnership.)

[But see (1904) 8 Cal WN 378 (380).]

(9) Special offences created by Ss. 30 and 65 do not interfere with the general provisions of Section 62 and do not alter the fact that an unstamped receipt is an instrument chargeable with duty and not duly stamped within the meaning of Section 62. **(1885) 8 Mad 11 (12) (SB).**

(10) Person giving unstamped receipt and refusing to give stamped one even after demand for same — He commits two offences, one under Section 62 and another under Section 65 in respect of same transaction. AIR 1933 Bom 462 (463) (DB).

(11) Initiation of prosecution without the sanction of the Collector being first obtained is fatal to the prosecution and to the conviction obtained on such prosecution. (1885) 9 Bom 27 (28) ** AIR 1915 Lah 241 (241) = 1915 Pun Re Cr. No. 21 ** AIR 1927 Nag 202 (202, 203) (Subsequent according of sanction cannot validate proceedings.)

67 Penalty for not drawing full number of bills or marine policies purporting to be in sets.—Any person drawing or executing a bill of exchange *[payable otherwise than on demand] or a policy of marine insurance purporting to be drawn or executed in a set of two or more,† and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

[1879—S. 66; 1869—S. 32; 1862—Ss. 12, 25; 1860—S. 10.]

[*] Inserted by the Indian Finance Act, 1927 (V of 1927), S. 5.

[†] Article 13 of the Schedule now provides for a single schedule of rates and hence this part of the provision seems to be obsolete.

68. Penalty for post-dating bills, and for other devices to defraud the revenue.—Any person who,—

(a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or

(c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

[1879—S. 67; 1862—S. 13; 1860—S. 11.]

STATE AMENDMENT

Gujarat:

In its application to the State of Gujarat, after Section 68, insert the following sections:—

"**68-A. Penalty for breach of provisions of section 73-A, sub-section (2).**—Any person who commits a breach of the provisions of sub-section (2) of section 73-A shall, on conviction, be punished—

(i) for the first offence with fine which may extend to five hundred rupees;

(ii) for a second offence, with fine which may extend to one thousand rupees, but which shall not be less than two hundred rupees; and

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees.

Section 68 — Note 1

(1) Post-dated bill of exchange or promissory note is chargeable with duty as if it were executed on the date which it bears. (1889) 16 Cal 432 (435) (DB). (In order to sustain prosecution under this section, it is essential to prove intention to defraud Government of duty.) ** AIR 1925 Bom 527 (528) (DB).

(2) Clause (c) is not controlled by Cl. (a) or Clause (b) of this section; it applies to all cases not provided for by this Act or any other law in which a fraud is practised on the Stamp law. **(1886) 8 Mad 138 (139) (SB).**

(3) Execution of a document requiring stamp, without seeing that it is stamped, is not a "device or contrivance" but may be an "act". AIR 1938 Bom 87 (88) (DB). (Mere fact that effect of executing instrument without stamp is to deprive Government of duty is not by itself sufficient to infer fraudulent intent. Court must have proof of facts to justify such conclusion.) ** (1900) 23 Mad 155 (158) (DB).

(4) Act, contrivance or device, referred to in Clause (c) must of itself be either improper or prohibited. (1933) Mad S M p. 62.

(5) So long as the letter of the law is adhered to the Court cannot object to any apparent evasion of the stamp duty, which results from splitting up of transaction and infer a fraudulent intent. 1886 Punj Re (Sm. C C) R No. 5. p. 4 (4).

(6) Proposal for loan in prescribed form of Bank, guaranteeing payment in column of form — Approval thereof by manager — Secretary of Bank issuing loan — Secretary prosecuted under this section on ground that his offer to make payment accepted by manager was device intended to avoid properly executed bond, and thus implying on part of all an intention to defraud Government of duty — **Held**, that secretary did not share or take any part in transaction with intent to defraud — His duties in connexion with transaction were purely ministerial. AIR 1918 Cal 495 (495 (DB).

"68-B. **Non-disclosure of information by a public servant.**—(1) All particulars contained in any documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before Criminal Court), shall, save as provided in sub-section (3) be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such document or record or any part thereof, or give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(3) Nothing contained in this section shall apply to the disclosure—

(a) of any such particulars in respect of any such documents, evidence, or deposition for the purpose of any prosecution under Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act; or

(b) of any such particulars to the State Government or to any person acting in the execution of this Act, for the purposes of carrying out the object of this Act; or

(c) of any such particulars when such disclosure is accompanied by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or

(e) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Stamp Department or any person or persons appointed as Commissioners under the Public Servants (Inquiry) Act, 1850, or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or

(f) of such facts to an officer of the Central Government or a State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it."—Guj. Act XIX of 1965, Section 13 (18-6-1965).

69. Penalty for breach of rule relating to sale of stamps and for unauthorised sale.—(a) Any person appointed to sell stamps who disobeys any rule made under section 74; and

(b) any person not so appointed who sells or offers for sale any stamp (other than a *[ten naye paise or five naye paise] adhesive stamp);

Section 69 — Note 1

(1) Abetment of the offences mentioned in this section is itself an offence under Section 109, Penal Code. (1933) Mad SM p. 63 (There is no provision of law preventing use of stamp by person purchasing it through another, though name of person paying money to vendor alone appears on stamp.)

(2) Word "Stamp" includes cancelled stamp also. 1914-1 KB 144 (146) = 83 LJ K B 114.

(3) Section does not apply to the sale of stamps required under the Legal Practitioners' Act. (1931) Beng S M Vol I, p. 56 ** (1940) Bihar S M p. 143.

(4) Sale by an unauthorized person is nonetheless an offence under this clause because the stamp was purchased by him bona fide for his own use and finding subsequently that it was no longer of any use to him, he sold it. (1931) Beng S M Vol I p. 56 ** (1940) Bihar S M p. 142.

(5) Exchange of stolen stamps by a thief for money constitutes a sale. (1901) 24 Mad 319 (321).

(6) A gave stamps to B, who was in immediate need of them and who promised to give in return stamps of same value — Transaction held did not amount to sale. (1903) 30 Cal 921 (922).

(7) Appointment of clerk by licensed Stamp-vendor is not prohibited. AIR 1964 Andh Pra 69 (71) = (1963) 1 Andh LT 490.

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[1879—S. 68; 1869—S. 48, Para. 3; 1862—S. 48; 1860—S. 31.]

[°] Substituted for the words "one anna or half an anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 10 (1-10-1958).

Note.—The Act, however, does nowhere prohibit the use of a stamp purchased through another and the name of the purchasing person, that is, the person actually paying for the stamps alone appears on the stamp.

STATE AMENDMENT

Madhya Pradesh:

In its application to the State of Madhya Pradesh, the amendment made in clause (b) of Section 69 is the same as that made by the Central Act XIX of 1958.—M. P. Act XVIII of 1958, Section 2 (e) (1-10-1958).

70. Institution and conduct of prosecutions.—(1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as the *[State Government] generally, or the Collector specially, authorises in that behalf.

(2) The Chief Controlling Revenue-authority,† or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

[1879—S. 69; 1869—S. 43; 1862—S. 52; 1860—S. 37.]

[°] Substituted for "collecting Government" by A.L.O., 1950.

[†] For definition, see General Clauses Act, 1897 (X of 1897), Section 3 (10).

71. Jurisdiction of Magistrates.—No Magistrate other than a Presidency Magistrate° or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

[1879—S. 70; 1869—S. 44; 1862—S. 53; 1860—Ss. 38, 39.]

[*] City Magistrates in Ahmedabad have been invested with the powers of a Presidency Magistrate—See Guj. Act XIX of 1961, Section 14. The new Criminal Procedure Code seeks to replace this cadre by metropolitan Magistrates. A metropolis is a city having a population of ten lakhs.

Section 70 — Note 1

(1) It is the Collector upon whom lies the initiative of instituting the prosecution and it is not within the competence of private individuals to set the criminal law in motion in respect of offences under the Stamp law. AIR 1927 Nag 202 (203).

(2) In the State of Madras the District Registrars have been authorised to launch prosecutions under the Act. AIR 1953 Mad 941 (Pr 4) = 1953 Cri LJ 1756.

(3) Jurisdiction of a Magistrate to try an offence under the Stamp Act depends upon the sanction of the Collector being first obtained to the institution of the prosecution. AIR 1915 Lah 241 (241).

(4) Want of sanction of the Collector is not a mere irregularity and a conviction obtained in a prosecution started without such sanction is bad in law. 1883 All WN 98 (98) ** (1870) 2 NWPHCR 188 (188) ** (1887) 9 All 210 (213).

(5) Subsequent according of the sanction cannot validate the prosecution and the defect is not curable by Section 537, Criminal P. C. AIR 1927 Nag 202 (202).

(6) If the record of the conviction does not contain any written sanction or any note of sanction having been given to the prosecution, the conviction will be set aside on the ground of the trial being without jurisdiction. (1885) 9 Bom 27 (28) (DB).

(7) Collector is not required to make a formal inquiry or to record a proceeding when he gives the sanction. (1884) 7 Mad 537 (539) (DB).

(8) Every one must be given an opportunity of paying the penalty before the Collector exercises his discretion under this section. (1883) 7 Bom 82 (83).

(9) Same person should not be both Judge and prosecutor. (1875) 24 Suth WR (Cr) 1 (2) (DB) ** (1880) 2 All 806 (807) ** (1878) 3 Cal 622 (622) (DB).

(10) Collector sanctioned prosecution for offence under Section 63 — Accused cannot be convicted under Section 62 on basis of same sanction. (1887) 9 All 210 (212, 213).

(11) Sanction for prosecution for offence under Section 64 (a) read with Section 27, Stamp Act — Appellate Court finding offence under Section 62 (1) (b) — Conviction without fresh sanction is legal — Conviction held could not be challenged on merits also, document being deed of exchange and not settlement not being stamped as deed of exchange. (1964) 2 MLJ 152 (154).

Section 71 — Note 1

(1) District Magistrate will have jurisdiction under this section to try an offence under this Act. (1875) 24 Suth WR (Cr) 1 (2) (DB).

72. Place of trial.—Every such offence committed in respect of any instrument may be tried in any district or presidency-town* in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

[1879—S. 71.]

[*] City of Ahmedabad has been accorded the status of a presidency town by Gujarat Act XIX of 1961 (4-11-1961).

CHAPTER VIII
SUPPLEMENTAL PROVISIONS

73. Books, etc., to be open to inspection.—Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

STATE AMENDMENTS

Rajasthan:

In its application to the whole State of Rajasthan on and from the first day of April, 1958, the amendment made in Section 73 is the same as that made in Uttar Pradesh.—Raj. Act XI of 1958, Section 3 (xviii).

Uttar Pradesh:

In Section 73, for the words "any person", substitute the following words: "any officer whose duty it is to see that proper duty is paid or any other person".—U. P. Act XVIII of 1938, Section 5 (13-2-1939).

STATE AMENDMENT

Section 73-A:

Gujarat:

After Section 73, insert the following section:—

"**73-A. Collector's power to authorise officer to enter premises and inspect certain documents.**—(1) The Collector may, where he has reason to believe that all or any of the instruments specified in Entry 91 of List I in the Seventh Schedule to the Constitution of India have not been charged at all or incorrectly charged with duty leviable under this Act, authorise in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents or proceedings relating to or in connection with any such instruments are kept and to inspect them and take such notes and extracts as such officer deems necessary, to seize them and to impound them under section 33.

(2) Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall, when so required by the officer authorised under sub-section (1), produce them before such officer and at all reasonable time permit such officer to inspect them and take notes and extracts as he may deem necessary."—Guj. Act XIX of 1965, Section 14 (18-6-1965).

74. Powers to make rules relating to sale of stamps.—The *[State Government] †[* * *] may make rules for regulating—

(a) the supply and sale of stamps and stamped papers,

(b) the persons by whom alone such sale is to be conducted, and

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Section 74 — Note 1

(1) Infringement by a stamp-vendor, of any of the rules under this section will not make the instrument not duly stamped. **(1891) 18 Cal 39 (42) (SB) ** (1888) 11 Mad 377 (378) (SB).**

(2) Where the rate of duty in Uttar Pradesh for an instrument which becomes chargeable for stamp duty as in this case with a higher rate of duty in Uttar Pradesh than West Bengal only the excess has to be paid in U. P. and it is only this excess which requires to be paid in U. P. stamps. **AIR 1963 SC 1307 (1312) = (1964) 1 SCA 44.**

(3) Revocation of licence to sell stamps — Principles of natural justice — Order revoking licence is only executive order — Not open to review by writ of certiorari. 1969 MPLJ 497 (499 to 500).

(c) the duties and remuneration of such persons:

Provided that such rules shall not restrict the sale of ‡[ten naye paise or five naye paise] adhesive stamps.

[1879—S. 55; 1869—S. 48, Para. 1; 1862—S. 36; 1860—S. 19.]

[*] Substituted for "collecting Government" by A.L.O., 1950.

[†] The words "subject to the control of the Governor-General in Council" were omitted by A.O., 1937.

[‡] Substituted for the words "one anna or half an anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 10 (1-10-1958).

75. Power to make rules generally to carry out Act.—The °[State Government] may make rules† to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

[1879—S. 56.]

[°] Substituted for "collecting Government" by A.L.O., 1950.

[†] For rules, see the following:—

(a) the Indian Stamp Rules, 1925—Government of India F. D. (C. R.) No. 63-Stamps 25, dated 5-5-1925. These Rules have been adopted and modified in Andhra Pradesh, Bengal, Madras and Union territory;

(b) the Bihar Stamp Rules, 1954—Bihar Notfn. No. 2232, Finance Dept., dated 19-2-1954;

(c) the Central Provinces and Berar Stamp Rules, 1942 (as extended to Madhya Pradesh by M. P. Act XVIII of 1957), Section 3 (4)—C. P. and Berar Separate Revenue Dept. Notfn. No. 223-225-VIII, dated 21-3-1942;

(d) the Rajasthan Stamp Rules, 1955—Raj. Notfn. No. F 49 (4) SR/53, dated 15-2-1955;

(e) the United Provinces Stamp Rules, 1942—U. P. Govt. F. D. No. M. 598/X-503, dated 25-3-1942.

STATE AMENDMENTS

Section 75-A:

Andhra Pradesh:

After Section 75, insert the following:—

"75-A. **Rules made by the State Government to be laid before the State Legislature.**—(1) All rules made by the State Government under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published in the Official Gazette.

(2) Every rule made under this section shall, immediately after it is made, be laid before each House of the State Legislature if it is in session, and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall thereafter have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule."—Andh. Pra. Act X of 1967, Section 4 (20-10-1967).

Tamil Nadu:

Section 75-A is the same as in Andhra Pradesh.—T. N. Act VIII of 1962, Section 5 (10-9-1962).

Pondicherry:

After Section 75, insert the following:—

75-A. (1) As in Tamil Nadu with substitution of the words "the Administrator" for "State Government".

(2) Same as in Tamil Nadu but for the substitution of 'this Act' for 'this section'; for 'each House of State Legislature', words 'the Legislative Assembly';

and for 'both Houses', words 'the Legislative Assembly'.—Act XXVI of 1968, S. 2 and Schedule, Pt. II.

76. Publication of rules.—*[(1) All rules made under this Act shall be published in the Official Gazette.]

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

[1879—S. 57, para. 2; 1869—S. 48, para. 2.]

[*] Substituted for the original sub-section by A.O., 1937.

°[76-A. **Delegation of certain powers.**—†[‡[* ° °] The State Government may, by notification in the Official Gazette], delegate—

(a) all or any of the powers conferred on it by sections 2 (9), 33 (3)-(b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority; and

(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1), (2), 56 (1) and 70 (2) to such subordinate Revenue-authority as may be specified in the notification.]

[°] Inserted by the Decentralization Act, 1914 (IV of 1914), Section 2 and Schedule, Part I.

[†] Substituted for "The Local Government may, by notification in the local official Gazette" by A.O., 1937.

[‡] The words, brackets and figures "The Central Government, subject to the provisions of section 124 (1) of the Government of India Act, 1935, and" were omitted by A.L.O., 1950.

77. Saving as to court-fees.—Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.*

[1879—S. 59; 1869—S. 17.]

[*] Arts. 15 (Bonds), 24 (copy or extract), 48 (powers of attorney) of Schedule contain saving clauses exempting these from duties chargeable under the Court-fees Act.

STATE AMENDMENTS

Andaman and Nicobar:

For the word "Nothing" at the beginning of Section 77, substitute the following: "Except for the provisions as to copies contained in Section 6-A, nothing".—Regn. III of 1957, Section 12 (1-8-1957).

Bihar:

Same as that of Andaman and Nicobar—Bihar Act VI of 1937, Section 12 (1-1-1938).

Goa, Daman and Diu:

Same as that of Andaman and Nicobar—Goa, Daman and Diu Act VIII of 1969, Section 13 (1-7-1969).

Madhya Pradesh:

In Section 77, for the words "Nothing in this Act contained", substitute the following: "Nothing contained in this Act except section 6-A so far as it relates to copies."—C. P. Act VI of 1939, Section 11 (1-7-1939) read with M. P. Act XVIII of 1957, Section 3 (2) (1-11-1957).

Orissa:

Same as that of Andaman and Nicobar—Orissa Act IV of 1943, Section 12 (26-4-1943).

Section 76 — Note 1

(1) Grant of exemption under S. 76 (2) read with Section 9 to certain instrument — Such instrument is not liable to surcharge under Section 98 read with Section 135 of Madras Act (IV of 1919). **AIR 1970 Mad 7 (9) = (1969) 1 Mad LJ 635 (FB).**

Section 77 — Note 1

(1) Section 77-A — Promissory note for more than Rs. 1000/- — Note bearing 4 stamps of one-anna each — After introduction of decimal system the proper duty is 25 N. P. — **Held** the document was not properly stamped. (1970) 2 Andh LT 234 (235).

Orissa Act 35 of 1962 had inserted 'Section 77-A. Fractions of five naye paise to be rounded off' after Section 77. The same was deleted by Orissa Act 9 of 1970 with effect from 6-4-1970.

Punjab: Haryana: Chandigarh:

Same as that of Andaman and Nicobar—Punjab Acts VIII of 1922, Section 15 (15-1-1923), read with V of 1957, Section 4: Central Act XXXI of 1966, Section 88.

Rajasthan:

Same as that of Andaman and Nicobar—Raj. Act XI of 1958, Section 3 (xix) (1-4-1958).

Uttar Pradesh:

Same as that of Andaman and Nicobar—U. P. Act III of 1936, Section 11 (1-5-1936).

West Bengal:

Same as that of Andaman and Nicobar—Beng. Act III of 1922, Section 12 (1-4-1922).

°[77-A. **Saving as to certain stamps.**—All stamps in denominations of annas four or multiples thereof shall be deemed to be stamps of the value of twenty-five naye paise or, as the case may be, multiples thereof and shall, accordingly, be valid for all the purposes of this Act].

[°] Inserted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 11 (1-10-1958).

STATE AMENDMENT

Section 77-B:

Madhya Pradesh:

In its application to the State of Madhya Pradesh, after Section 77-A, insert the following new section, namely:—

"**77-B. Rounding off of fractions in duty payable or to be collected or allowances to be made.**—In determining the amount of duty payable or of allowances to be made under this Act, any fraction of five Naye Paise shall be rounded off by treating it as equivalent to five Naye Paise."—M. P. Act XVIII of 1961, Section 2 (19-5-1961).

78. Act to be translated and sold cheaply.— Every °[State Government] shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding †[twenty-five naye paise] per copy.

[1879—S. 60; 1869—S. 51; 1862—S. 37.]

[°] Substituted for "Provincial Government" by A.L.O., 1950.

[†] Substituted for "four annas" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 12 (1-10-1958).

STATE AMENDMENTS

Andhra Pradesh:

In its application to the State of Andhra Pradesh on and from the first day of April, 1959, for S. 78, substitute the following section, namely:—

"**78. Duty to be paid or allowances to be made for fraction of ten paise.**—In the declaration of the amount of duty payable or of allowance to be made under this Act, any fraction of ten paise equal to or exceeding five paise, and other fractions of ten paise shall be disregarded."—Andh. Pra. Act X of 1967, Section 5 (20-10-1967).

Madhya Pradesh:

In its application to the State of Madhya Pradesh, the amendment made in S. 78 is the same as that made in the section by the Central Act XIX of 1958—M. P. Act XVIII of 1958, Section 2 (f) (1-10-1958).

Pondicherry:

Same as in Tamil Nadu—Pondi. Act XXI of 1970, Section 9 (5-8-1970).

Tamil Nadu:

In its application to the State of Tamil Nadu, for Section 78, substitute the following, namely:—

"**78. Duty or allowance to be rounded off to the next higher multiple of five paise.**—If the total amount of duty payable, or of allowance to be made, under this Act is not a multiple of five paise, the total amount shall be rounded off to the next higher multiple of five paise."—T. N. Act XXIV of 1967, Section 9 (22-4-1968).

STATE AMENDMENT

Section 78-A:

Madhya Pradesh:

In its application to the State of Madhya Pradesh, after Section 78 insert the following new section, namely:—

"**78-A. Saving as to instruments executed before the appointed day.**—Notwithstanding anything to the contrary contained in this Act or in the Madhya Pradesh Taxation Laws (Extension) Act, 1957 (M. P. XVIII of 1957), every instrument executed before the appointed day* in any region† of Madhya Pradesh shall be governed by the provisions of the law relating to stamps in force in that region at the time when such instrument was executed."—M. P. Act XVIII of 1957, Section 3 (2) and Schedule, Part B.

(*) The appointed day means the first of November, 1957.

(†) Region means the Bhopal region, the Madhya Bharat region, the Mahakoshal region, the Sironj region and the Vindhya Pradesh region.

(a) "Bhopal region" means the territories which immediately before the first day of November, 1956, were comprised in the Part C State of Bhopal;

(b) "Madhya Bharat region" means the territories which immediately before the first day of November, 1956, were comprised in the Part B State of Madhya Bharat except Sunel Tappa of Bhanpur Tahsil of Mandsur district;

(c) "Mahakoshal region" means the territories comprised within the districts of Jabalpur, Sagar, Damoh, Mandla, Hoshangabad, Narsinghpur, Chhindwara, Seoni, Betul, Nimar, Raipur, Bilaspur, Durg, Bastar, Surguja, Raigarh and Balaghat;

(d) "Sironj region" means the area comprised in the Sironj sub-division of the Bhilsa district on the first day of November, 1956;

(e) "Vindhya Pradesh region" means the territories which immediately before the first day of November, 1956, were comprised in the Part C State of Vindhya Pradesh.

79. Repeal.—[Repealed by the Repealing and Amending Act, 1914 (10 of 1914), Section 3 and Schedule II.]

STATE AMENDMENT

Andaman and Nicobar:

In its application to the Andaman and Nicobar Islands, after Section 78, the following section shall be, and shall be deemed always to have been, inserted, namely:—

"**79. Fractions of five naye paise how to be computed.**—For the purpose of determining the stamp duty payable, or an allowance to be made, under this Act, any fraction of five naye paise shall be reckoned as five naye paise."—Regn. I of 1961, Section 2 (a) (with retrospective effect).

SCHEDULES

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THE SCHEDULES

(A) Scheme of arrangement of schedules

NOTE 1.—Schedule I, the only schedule, in the Central Act has, in its application, been amended in the States of Assam, Madras and Rajasthan. Instead of giving these amendments under the respective articles of the Central Act, separate Sch. I, as amended from time to time in these respective States, has been printed in the alphabetical order of the names of these States.

NOTE 2.—In place of Sch. I of the Central Act, barring a few articles the topics dealt by which are covered by Entry 91 of List I of Sch. VII of the Constitution of India, a new schedule, namely Sch. IA, has been inserted after Sch. I by the President and respective State Legislatures in its application to the Union territory of the Andaman and Nicobar Islands and the States of Andhra Pradesh, Bihar, Madhya Pradesh, Orissa, Punjab, Uttar Pradesh and West Bengal. Schedule IA of the said Union territory and the States, as amended from time to time, have been printed, in the alphabetical order of the names of the territory and States, after the text of Sch. I.

NOTE 3.—In the State of Uttar Pradesh, an additional schedule, namely Sch. IB, has, in its application to the said State, been inserted after Sch. IA of that State. This additional Sch. IB is, as amended from time to time, given just after Sch. IA of Uttar Pradesh.

NOTE 4.—Under the scheme of the Regulation and Acts enacted by the President and State Legislatures amending the schedule, the articles in Sch. I, IA, or IB

are, except in that of the State of Andhra Pradesh, numbered so as to correspond with similar articles in Sch. I of the Central Act.

NOTE 5.—In the States of Bihar and Rajasthan the duty leviable in those States under the articles is increased by a surcharge.

NOTE 6.—Separate Stamp Acts, as distinct from the Stamp Act, 1899, of Central Legislature have been enacted in the States of Gujarat, Jammu and Kashmir, Kerala, Maharashtra and Mysore. The complete texts of these State Acts, as amended from time to time, have been reproduced at the end of the schedules in an Appendix.

NOTE 7.—Shortly after the publication in 1946 of the first edition of this Manual, India attained independence in 1947. By the end of 1949 all the Rulers of the former Indian States ceded their territories by signing merger agreements in favour of the Government of India. Parliament began to function under the Constitution of India and under the powers vested by Art. 3 of the Constitution it started the process of forming new States either by separation or by combination of territories. A brief indication of this process of reorganization along with the applicability of the stamp-law to the States is given in Notes under the name of the States in their alphabetical order.

(B) Conversion of old coins into new coins.

By section 14 of the Indian Coinage Act, 1906, newly inserted by the Indian Coinage (Amendment) Act, 1955 (XXXI of 1955), which came into force on and from the first day of April, 1957, decimal system of coinage is introduced in India. Section 14 of the said Act is as follows:

"**14. Decimal system of coinage.**— (1) The rupee shall be divided into one hundred units and the new coin representing such unit may be designated by the Central Government, by notification in the Official Gazette, under such name as it thinks fit, and the rupee, half-rupee and quarter-rupee shall be respectively equivalent to one hundred, fifty and twenty-five such new coins and shall, subject to the provisions of sub-section (1) and sub-section (2) of section 13 and to the extent specified therein, be a legal tender in payment or on account accordingly.

(2) All coins issued under the authority of this Act in any denominations of annas, pice and pies shall, to the extent specified in section 13, be a legal tender in payment or on account at the rate of sixteen annas, sixty-four pice or one hundred and ninety-two pies, to one hundred new coins referred to in sub-section (1), calculated in respect of any such single coin or number of such coins, tendered at one transaction, to the nearest new coin, or where the new coin above and the new coin below are equally near, to the new coin below.

(3) All references in any enactment or in any notification, rule or order under any enactment or in any contract, deed or other instrument to any value expressed in annas, pice and pies shall be construed as references to that value expressed in new coins referred to in sub-section (1) converted thereto at the rate specified in sub-section (2)."

In exercise of the powers conferred by sub-section (1) of section 14 reproduced above, the Central Government has designated the new coin representing each of the one hundred units into which a rupee is divided under that sub-section as a "NAYA PAISA"—S.R.O., 1120.

The direction given in sub-section (3) of section 14 is to be followed generally, unless a different direction is given by any Act whether passed by Parliament or a State Legislature. Practically every State has, through its Legislature, amended the provisions of sections, where necessary, and the column of proper stamp-duty in the schedule, by substituting new rates expressed in new coins. However, where there is no such amendment, the provision contained in sub-section (3) will prevail.

SCHEDULE I

STAMP-DUTY ON INSTRUMENTS

(See section 3)

Description of Instrument.	Proper Stamp-duty.
1. ACKNOWLEDGEMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property. [1879—Art. 1; 1869—Sch. II, Art. 5].	One anna.

SCHEDULE I, ARTICLE 1 — SYNOPSIS

1. Acknowledgment.
2. "Of a debt."
3. "Written or signed by or on behalf of."
4. "In order to supply evidence of such debt."
5. "Promise to pay the debt."
6. Stipulation to pay interest.
7. Acknowledgment and bond.
8. Memorandum of purchase of goods.
9. Unstamped acknowledgment — Effect.
10. Limitation.

1. Acknowledgment.— (1) It depends on the construction of each instrument whether it amounts to an acknowledgment. (1882) 8 Cal 282 (284) (DB) ** (1912) 39 Cal 789 (797) (DB) ** AIR 1939 Rang 315 (319) = 1939 Rang LR 194.

(2) An "I. O. U." is a good example of an acknowledgment of debt. **AIR 1928** Sind 89 (89).

(3) Addition in an acknowledgment of the words "for value received" does not make it an agreement or promissory note. (1845) 135 ER 653 (655) = 14 LJ CP 175.

(4) Mere memorandum of a transaction will not amount to acknowledgment of a debt. (1906) 28 All 436 (438) (DB) ** (1905) 27 All 84 (86) (DB).

(5) A document which is just an acknowledgment by the defendant of the plaintiff's husband's right to his own property or a memorandum of certain assets and liabilities which does not contain any promise by the latter to do anything on his own behalf does not require any stamp at all. AIR 1957 Raj 125 (126) = ILR (1957) 7 Raj 570 (SB).

(6) A Letter written by the creditor and signed by the debtor may be an acknowledgment. AIR 1923 All 297 (297) = 45 All 374 (DB).

(7) An acknowledgment contemplates a pre-existing debt. Where it is not the contention of the plaintiff that the entry in his bahi was on the settlement of previous account the entry is not an acknowledgment and is not hit by S. 35 and does not require to be stamped with one anna stamp. 1961 Jab LJ 477 (477) ** (1966) 68 Punj LR 858 (859). (Initial document not relating to pre-existing debt cannot be described as acknowledgment.) ** 1956 Raj LW 393 (395) (Acknowledgment itself creating new debt does not come within Article 1.)

(8) So long as the acknowledgment does not contain any promise to pay debt or stipulation to pay interest or to deliver any goods or other property it will remain an acknowledgment though by implication there may be contained in it a promise to pay a debt or to pay interest. **AIR 1969 Raj 192 (210) = ILR (1968) 18 Raj 1137 (FB).**

(9) Plaintiff advancing money to defendant — Defendant acknowledging receipt of money — Instrument is receipt and not acknowledgment and would be admissible in evidence on payment of penalty. AIR 1966 Mad 359 (359) = (1966) 1 Mad LJ 304.

2. "Of a debt"— (1) An acknowledgment must be of a debt. (1881) 3 All 781 (786, 786) (DB). (Debt includes a judgment debt — Case under Contract Act S. 25 (3).)

(2) Where an account has two sides, namely "amount advanced" and "amount received," an entry in the column as to "amount advanced" will not necessarily be an acknowledgment of a debt merely because it is signed by the borrower. (1879) 4 Cal 885 (887) (DB).

(3) An acknowledgment of the correctness of an account is not necessarily the acknowledgment of a debt. AIR 1936 Mad 939 (939). (AIR 1925 Mad 1215, **Foll.**)

(4) An acknowledgment by the defendant of the plaintiff's husband's right to his own property or a memorandum of certain assets and liabilities of his business which does not contain any promise by the latter to do anything on his own behalf is neither an acknowledgment nor an agreement and does nor require any stamp at all. **AIR 1957 Raj 125 (126) = ILR (1957) 7 Raj 570 (SB).**

3. "Written or signed by or on behalf of." — (1) An instrument neither written nor signed by the debtor or his agent cannot

Article 1 — Note 3 (contd.)
fall under this article. (1906) 28 All 436 (439) (DB) ** **(1887) 11 Bom 526 (527) (FB).**

4. "In order to supply evidence of such debt."— (1) This article will only apply if acknowledgment is given in order to supply evidence of the debt. AIR 1937 Oudh 391 (393) = 13 Luck 334 (DB) ** AIR 1960 J and K 149 (150) ** ILR (1960) 10 Raj 213 (216) ** AIR 1959 Bom 289 (290) = ILR (1959) Bom 822 (DB) ** AIR 1958 Punj 216 (217) = ILR (1958) Punj 674 (DB) ** 1954 Raj LW 123 (124) ** AIR 1934 Pat 629 (630) (DB) ** (1903) 30 Cal 687 (688) (DB).

(2) Whether an acknowledgment was for supplying evidence of a debt is question of intention of the debtor to be determined on the language of the instrument and the surrounding circumstances. (1936) 63 Cal 813 (815) ** AIR 1960 J and K 149 (150) ** AIR 1958 Andh Pra 88 (88) ** AIR 1958 Punj 216 (217) = ILR (1958) Punj 674 (DB) ** AIR 1951 Mad 605 (Pr 5) (DB) ** AIR 1925 Lah 119 (119) ** AIR 1924 Mad 352 (354) = 46 Mad 948 (DB) ** AIR 1938 Nag 51 (51) = ILR (1939) Nag 695.

(3) In determining the intention of the debtor the Court must see what is the dominant idea in obtaining the document. AIR 1924 Mad 352 (353) = 46 Mad 948 (DB) ** AIR 1959 Bom 289 (290) = ILR (1959) Bom 822 (DB) ** AIR 1945 Nag 212 (213) = ILR (1945) Nag 728 ** AIR 1938 Nag 51 (51) = ILR (1939) Nag 695 ** AIR 1939 Rang 315 (318) = 1939 Rang LR 194 ** AIR 1930 Sind 189 (189, 190).

(4) Amount borrowed and sarkhat executed — Such amount paid off and fresh amount borrowed — Memorandum signed on old document to the effect that a certain sum had been taken and that the liability was limited to this sum was held to be an "acknowledgment." AIR 1933 All 577 (579).

(5) Formal acknowledgment of liability for a certain amount found due on the balancing of account is an "acknowledgment". AIR 1932 All 199 (201) = 53 All 963 (DB).

(6) Document in question was in the form of a letter on a printed form in a book kept by plaintiff — Carbon copy taken from it and given to defendants to whom it was addressed — After mentioning certain credits and debits it concluded with the statement that a sum of Rs. 660 was due to plaintiff from defendants, errors and omissions excepted. and was signed by one of the defendants — **Held,** that the acknowledgment was made in order to supply evidence of the debt. AIR 1923 All 297 (297, 298) = 45 All 374 (DB).

(7) New rukhas executed — Old rukhas returned — It may be inferred that intention of new rukhas was to supply evidence. of debt. (1900) 3 Oudh Cas 195 (197. 198, 201) (DB).

(8) Admission of liability by debtor and written order to his tahsildar to pay the amount to plaintiff, held not an "acknowledgment." (1903) 30 Cal 687 (688. 689) (DB).

(9) Admissions made by defendants in reports to higher authorities held were not acknowledgments of debt within Schedule 1, Article 1, as they were not meant to supply evidence of debt. Nevertheless they were acknowledgments within Section 19, Limitation Act, and saved limitation. AIR 1957 Him Pra 23 (25).

(10) Judgment-debtor sending sum of money through S with letter addressed to latter in which he asked S to pay the money to the decree-holder and asked for further time to pay the balance — **Held,** that the letter was not an acknowledgment. AIR 1937 Oudh 391 (393) = 13 Luck 334.

(11) The existence or otherwise of other evidence to prove the debt should be taken into consideration while determining whether an acknowledgment was signed for supplying evidence of the debt. AIR 1925 Mad 1215 (1216) (DB) ** AIR 1945 Nag 181 (183) = ILR (1945) Nag 745 (DB).

(12) Distinction must be made between an admission of the correctness of an account and an acknowledgment for the purpose of supplying evidence of a debt. It is only in the latter case and not in the former, that this article will apply. It is a question of intention of the parties under which category an instrument falls. AIR 1941 Nag 70 (71) ** (1954) Raj LW 123 (124) ** AIR 1951 Madh B 78 (Pr 3). (Whether a balance signed by a debtor in the books of his creditor, amounts to an acknowledgment, is a question depending upon the form of entry and the intention of the entry.) ** Madh BLJ 1954 HCR 775 (776, 777) ** AIR 1938 Pat 139 (140) ** AIR 1947 Bom 337 (338) = ILR (1947) Bom 223 ** AIR 1925 Lah 119 (119) ** AIR 1924 Mad 352 (353, 354) = 46 Mad 948 (DB) ** (1970) 72 Punj LR 28 (32). (The entry "Baqi raha dena" (Balance amount payable) in bahi entry is an acknowledgment of the correctness of account and not intended to supply as evidence of debt.) ** (1969) 71 Punj LR 446 (448) ** AIR 1950 Mad 135 (135) = (1949) 2 Mad LJ 543.

(13) In the following cases the instrument was held to be merely an admission of the correctness of the account and not an acknowledgment as the acknowledgment had not been made for the purpose of supplying evidence of the debt. AIR 1946 Nag 112 (113) = ILR (1946) Nag 21 ** AIR 1958 Andh Pra 88 (88). (A mere signature in a running account is not evidence of the debt of which there is already evidence in the account book.) ** AIR 1958 Punj 216 (217) = ILR (1958) Punj 674 (DB). (Defendant taking loans from plaintiff — Account kept by defendant — First two balance entries in hands of defendant and stamped with revenue stamp of one anna — Third and last entry written by defendant but not stamped — Last entry held was not intended by defendant to supply evidence of debt.) ** AIR 1956 Raj 12 (18) = ILR (1955) 5 Raj, 85 (DB). (Where in an account book after the opening balance there are some items on the credit side as also on the debit side and then the balance is struck then there is the signature of the debtor acknowledging the balance as due from him, the presumption is that the intention was to accept the correctness of the account.) ** 1954 Madh BLJ HCR 775 (776) ** 1954 Raj LW 123 (124) ** (1936) 63 Cal 813 (816) ** AIR 1933 Lah 962 (963) **

Article 1 — Note 4 (contd.)
AIR 1938 Nag 51 (51) = ILR (1939) Nag 695 ** AIR 1939 Rang 315 (318) ** AIR 1930 Sind 189 (189, 190) = 24 Sind LR 372 ** AIR 1941 Nag 70 (71) ** AIR 1962 Mys 80 (80, 81) = 1963 Mys LJ (Supp) 18 ** ILR (1958) Mys 887 (892).

(14) In the following cases the balance signed by the debtor was held to be an acknowledgment coming within this article. AIR 1947 Bom 337 (338) = ILR (1947) Bom 223 ** AIR 1915 Cal 280 (281) (DB) ** AIR 1917 Mad 14 (16) (DB) ** AIR 1925 Lah 119 (119).

(15) An acknowledgment not intended to supply evidence of debt but intended merely to extend limitation does not fall under this Article. AIR 1947 Nag 145 (150) = ILR (1946) Nag 796 (DB) ** ILR (1960) 10 Raj 213 (216).

[See AIR 1960 J & K 149 (150) ** AIR 1957 Him Pra 23 (25).]

(16) Entries in the account books will fall under this Act only (1) where such entries are for rupees exceeding 20 and are covered by the signatures for evidencing the debt, (2) where such entries do not represent additions of previous entries of liability but represent fresh liability evidenced by those entries alone and (3) where the signature is directly against the entry of rupees exceeding 20 in order to furnish evidence for that debt. (1957) 70 Mad LW 1004 (1005).

5. 'Promise to pay the debt." (1) An acknowledgment containing a promise to pay the debt has been expressly excluded by the proviso from the applicability of this article. AIR 1934 Pat 629 (630) (DB). (Where a judgment-debtor in his letter asks the creditors to have full faith in him as he intends to reap his crop shortly and faithfully promises to pay the sum within three weeks. the letter is not an acknowledgment.) ** AIR 153 Hyd 154 (Pr 2) = ILR (1953) Hyd 93 (DB).

[See also AIR 1954 Assam 175 (Pr 8) = ILR (1953) 5 Assam 525 (DB). (An ordinary letter addressed to the creditor in which the debtor acknowledges that a certain debt is payable to the creditor and that he wants the payment of this to be made in monthly instalments cannot be brought under Article 1.)]

(2) An unconditional acknowledgment itself implies a promise to pay. **(1906) 33 Cal 1047 (1058) = 33 Ind App 165 = 2 Nag LR 130 (PC).**

(3) The "promise" must be an express promise — Not one implied in an unconditional acknowledgment of liability. (1908) 30 All 268 (269) (DB) ** AIR 1951 Mad 605 (Pr 4) (DB) ** AIR 1936 Cal 399 (400) (DB) ** AIR 1947 Bom 337 (338) = ILR 1947 Bom 223 ** AIR 1933 Lah 271 (273) ** AIR 1934 Nag 273 (273) = 31 Nag LR 105 ** AIR 1919 Nag 141 (142).

[But see AIR 1951 Madh B 78 (Pr 3) (Expression in khata entry 'Baqi dena' is an unconditional acknowledgment implying promise to pay and as such is an agreement and not an acknowledgment coming under Schedule 1. Article 1 — Submitted not correct.) ** AIR 1931 Lah 631 (631) (DB) ** (1931) 32 Punj LR 767 (767, 768) (DB).]

(4) It is a question of construction of the instrument in each case whether it is an acknowledgment containing a promise to pay the debt. AIR 1936 Cal 399 (400) (DB). (Words "we are going to pay the whole debt soon" held to constitute promise to pay the debt.) ** AIR 1959 Madh Pra 327 (328). (The words 'Baki rupaya dena manzoor' in a document clearly constitute an express promise to pay the balance) ** (1945) 24 Pat 323 (324) (DB) ** **AIR 1942 Lah 50 (54 to 56) = ILR (1942) Lah 282 (FB)** ** AIR 1938 Lah 511 (512). ("Baqui rahe lene lekha kar ke charso tees rupia". **Held** was an agreement and not a mere acknowledgment.) ** AIR 1938 Lah 503 (505) (DB) ("Baqui rahe" is merely acknowledgment — "Baqui dene" is promise to pay the balance.) ** (1884) 8 Bom 405 (407) (DB). (Gujrati words "Baki deva" merely import "balance due" which do not of themselves amount to a promise to pay within Section 25 (3), Contract Act.)

(5) The question whether an acknowledgment contains a promise to pay the debt must be decided with reference to the language used in and not to the legal obligation arising from the instrument. **AIR 1942 Lah 50 (54 to 56) = ILR (1942) Lah 282 (FB).**

(6) An acknowledgment of debt containing a promise to pay may be a bond or promissory note or mere agreement according to the nature of the instrument in each case. **AIR 1914 All 259 (259) = 36 All 11 (FB).** (Agreement.) ** AIR 1953 Hyd 154 (Pr. 2) = ILR (1953) Hyd 93 (DB) ** (1882) 8 Cal 645 (648) (DB). (Promissory note.) ** AIR 1934 Lah 730 (732) (DB). (Agreement.) ** AIR 1934 Mad 25 (25, 26) ** AIR 1924 Mad 657 (658) = 38 Mad 660 (DB). (Promissory note).

[See also AIR 1947 Nag 145 (150) = ILR (1948) Nag 796 (DB).]

(7) Mere fact that acknowledgment is attested by a witness will not remove it from the category of acknowledgment and make it a bond where the instrument does not contain a promise to pay the debt. **AIR 1942 Lah 50 (54 to 56) = ILR (1942) Lah 282 (FB).**

(8) Pay order and assignment — Distinction — Endorsement on bill that third person will realise debt — Instrument held was assignment and not pay order. AIR 1962 Cal 654 (655) (DB).

6. Stipulation to pay interest.— (1) Acknowledgment containing a stipulation to pay interest must be treated as an agreement for purposes of this Act. AIR 1934 All 1052 (1053) (DB) ** AIR 1958 Raj 72 (74) ** AIR 1957 Raj 65 (68) = ILR (1956) 6 Raj 505 (DB). (Proper stamp chargeable would be under Article 5.) ** AIR 1933 All 179 (180) = 54 All 761 (DB) ** AIR 1923 Cal 659 (662) (DB) ** **(1908) 35 Cal 111 (113) (FB)** ** AIR 1930 Oudh 194 (195) = 5 Luck 218 (DB) ** AIR 1916 Sind 66 (68) = 9 Sind LR 150.

(2) The stipulation to pay interest need not contain express words of promise or agreement provided that the words imply a promise to pay interest at the named rate. AIR 1927 All 677 (678) = 49 All 496 (DB) ** **(1901) 25 Bom 373 (375) (FB)** ** **AIR 1931**

Description of Instrument.	Proper Stamp-duty.
2. **ADMINISTRATION-BOND**, including a bond given under section 256 of the Indian Succession Act, 1865,* section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881,* or section 9 or section 10 of the Succession Certificate Act, 1889*— (a) where the amount does not exceed Rs. 1000: (b) in any other case	The same duty as a Bond (No. 15) for such amount. Five rupees.

[1879—Art. 2].

[*] Now see Succession Act, 1925, sections 291, 375 and 376.

Article 1 — Note 6 (contd.)
Lah 4 (4) ** (1908) 4 Low Bur Rul 330 (333) (FB) ** AIR 1933 All 256 (256) (FB).

(3) An acknowledgment containing a stipulation to pay interest cannot be held to consist of several separate agreements merely because it relates to several items. **AIR 1928 All 162 (163) = 50 All 504 (FB).**

(4) Entry regarding payment of interest made at top of Khata — Acknowledgment regarding certain sum written and signed by A on same date — Second item regarding certain amount entered some time after when that amount was borrowed — A held meant to pay interest on all amounts entered in khata subsequently — Second entry held also amounted to agreement. AIR 1957 Raj 65 (68) = ILR (1956) 6 Raj 505 (DB).

7. Acknowledgment and bond.— (1) The mere fact that in law an acknowledgment implies a promise to pay is not sufficient to make it a bond though the document may be attested. See the following cases:— (1890) 14 Bom 511 (512) (DB). (Khata in debtor's name containing his acknowledgment of receipt of loan amount — Affixture of signature of writer as such — **Held**, mere acknowledgment.) ** AIR 1937 Lah 220 (222) (DB). (Acknowledgment of a debt due to the creditor, signed by the debtor and attested by two witnesses, in the creditor's account.) ** AIR 1933 Lah 271 (273). (Entry in Bahi account.) ** 1885 Pun (Rev) No. 4, p. 7 (7). (Entry in account book acknowledging correctness of balance found on taking accounts.) ** AIR 1972 Madh Pra 54 (57) = 1971 Jab LJ 1002 (DB).

8. Memorandum of purchase of goods.— (1) A memorandum of purchase of goods, signed by a customer buying on credit is not an acknowledgment of a debt. It is not even an agreement or memorandum of agreement but only a voucher. **AIR 1935 Lah 567 (568, 569) (SB).**

9. Unstamped acknowledgment — Effect.— (1) An unstamped acknowledgment though not admissible as an acknowledgment could yet be admitted for a collateral purpose, as an acknowledgment of liability in respect of goods sold. (1894) 18 Bom 614 (616) (DB).

(2) An unstamped acknowledgment cannot be relied on for the purpose of saving limitation. AIR 1919 Nag 141 (142).

(3) An unstamped acknowledgment can be admitted in evidence as an agreement on payment of penalty. AIR 1930 Lah 177 (178).

[But see AIR 1919 Nag 141 (142).]

(4) Mere fact that the entry in an account book amounts to an acknowledgment of a debt and is not admissible in evidence owing to its not being duly stamped, does not preclude the book itself being admitted in evidence as a book kept in the regular course of business. 1874 Pun Re No. 43, p. 166 (166) (DB).

(5) Kurippu is acknowledgment which being unstamped is inadmissible in evidence — Revision does not lie from order admitting Kurippu in evidence — Once document is admitted in evidence admissibility of such document cannot be called in question. 1961 Ker LT 151 (152).

(6) Where the original document executed out of State does not require stamp the certified copy brought in the State need only to be stamped under Article 24 but if the original requires to be stamped the certified copy must be rejected as inadmissible. AIR 1951 Pepsu 24 (25).

10. Limitation.— (1) An acknowledgment coming under this article and therefore requiring to be stamped cannot be used even for the purpose of saving limitation. But an acknowledgment made only for the purpose of saving limitation and not for supplying evidence of the debt will not come under this article. AIR 1957 Him Pra 23 (25). (Admission made by defendants in reports to higher authorities held were not acknowledgments of debt within Article 1 as they were not meant to supply evidence of debt and such were not required to be stamped. Nevertheless they were acknowledgments within Section 19, Limitation Act and saved limitation.) ** AIR 1960 J and K 149 (150) (Acknowledgment of balance due after part payment. not signed with intention of supplying evidence of debt — Schedule 1, Article 1 does not apply — Acknowledgment comes within Section 20. Limitation Act.) ** AIR 1972 Andh Pra 282 (286) = (1972) 1 Andh Pra LJ 316 ** AIR 1970 Bom 251 (254) = 72 Bom LR 653 ** AIR 1963 Andh Pra 138 (139, 140) = (1962) 2 Andh WR 372 (DB).

Description of Instrument.	Proper Stamp-duty.
3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt. [1879—Art. 38; 1869—Sch. II, Art, 31.]	Ten rupees.
ADVOCATE. See [ENTRY AS AN ADVOCATE] (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing. Exemptions Affidavit or declaration in writing when made— *[(a) as a condition of enrolment under the †Indian Army Act, 1911: ‡[or the Indian Air Force Act,§ 1932];] (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	One rupee.

[1879—Art. 3; 1869—Sch. II, Art. 14; 1862—Sch. A, Art. 8; 1860—Sch. A, Art. 2.]

[*] Substituted by the Repealing and Amending Act, 1928 (XVIII of 1928), Sec. 2 and Sch. I.

[†] Now see the Army Act, 1950 (XLVI of 1950).

[‡] Inserted by the Indian Air Force Act, 1932 (XIV of 1932), S. 130 and Sch.

[§] Now see the Air Force Act, 1950 (XLV of 1950).

Article 3 — Note 1

(1) In deciding whether an instrument is an "adoption-deed" it is the purpose of the instrument that has to be looked to in each case and not how the deed has been described by the executant. **AIR 1932 Lah 118 (119) = 13 Lah 270 (SB).**

(2) An adoption and the record thereof need not be contemporaneous. AIR 1932 Lah 118 (120) = 13 Lah 270.

(3) A document whereby the natural parents of a boy consent to his being adopted by another is not an instrument conferring an authority to adopt. (1889) 13 Bom 281 (285).

Article 4 Note 1

(1) A declaration required by Rule 10 (2) of the Berar Electoral Rules is not an affidavit as it is not required to be made before a person having authority to administer an oath or affirmation. (1921) 60 Ind Cas 870 (876) (Nag).

(2) Word "immediate" refers to purpose and not to time — Affidavit sworn in Bombay on 24th April 1942 for filing at Meerut filed at Meerut on 12th May 1942 — Affidavit comes within exemption. **AIR 1947 All 37 (37) = ILR (1946) All 732 (FB).**

(3) The word 'immediate' must be understood as allowing a reasonable time. There must be no such unreasonable delay as would be inconsistent with what is meant by "immediate." **(1888) 12 Bom 276 (277) (FB) ** AIR 1951 Madh B 158 (Pr 2) (DB).** (Word "immediate" is not unrelated to time — AIR 1947 All 37, **Dissented from.**)

(4) The word "immediate" in the context means "direct" and not 'remote". 1958 Jab LJ 61 (62) ** AIR 1965 Raj 20 (20, 21) = 1964 Raj LW 438 = 1965 (1) Cri LJ 216. (Affidavit of which direct purpose is that it is to be filed in Court or before officer of Court is exempted from payment of stamp-duty.)

(5) The question whether an affidavit or declaration is one made for immediate purpose specified in exemption (b) will depend on the facts of each case. 1958 Jab LJ 61 (62) ** AIR 1951 Madh B 158 (Pr 2) (DB).

(6) An affidavit was filed in a criminal case. The affidavit was stamped with a non-judicial stamp. It was held that according to the General Rules and Circular Orders (Criminal) the stamp required was a court-fee stamp and not a non-judicial stamp and therefore the affidavit was inadmissible in evidence. AIR 1931 Cal 344 (345) = 58 Cal 1211 (DB).

(7) 'Instrument' in Section 2 (14) must receive extensive meaning — It includes affidavit falling under exemption (b) in Article 4 — Deletion of exemption (b) by Act 26 of 1965 makes the affidavit liable to stamp duty under that Article. AIR 1967 Andh Pra 87 (89, 90) = (1966) 2 Andh WR 471 (DB).

Description of Instrument.	Proper Stamp-duty.
*[5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Two annas,
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the security or share.
(c) if not otherwise provided for . .	Eight annas.
Exemptions	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43;	
(b) made in the form of tenders to the Central Government for or relating to any loan;	
†[* * * *]]	

[1879—Art. 5; 1869—Sch. II, Arts. 3, 11; 1862—Sch. A, Arts. 1, 2, 4 to 7; 1860—Sch. A, Arts. 1, 28.]

[*] Substituted for the original article by the Indian Stamp (Amendment) Act, 1910 (VI of 1910), S. 3.

[†] Clause (c) was omitted by A.L.O., 1950.

ARTICLE 5 — SYNOPSIS

1. Agreement or memorandum of agreement.
2. Clause (b).
3. Agreements not otherwise provided for — Clause (c).
4. Agreement contained in several letters.
5. Attestation.
6. Bond and agreement.
7. Agreement and promissory note.
8. Agreement altering terms of prior instrument.
9. Instrument containing several matters.
10. Reference to arbitration.
11. Compromise petition.
12. Acknowledgment of debt coupled with promise to pay.
13. Acknowledgment of debt with stipulation to pay interest.
14. Agreement relating to deposit of title deeds.
15. Promise to pay time-barred debt.
16. Exemption (a).

1. Agreement or memorandum of agreement.— (1) The word "agreement" must be taken in the sense defined in Section 2. Contract Act. **AIR 1935 Lah 567 (568) = 17 Lah 1 (SB).**

(2) Even where the instrument does not itself constitute the agreement but is only a memorandum of an oral agreement already made, it is liable to duty under this Article. (1846) 153 ER 1101 (1102, 1103) = 16 LJ Ex 18.

(3) If the intention of the parties is to place on record the terms of the contract between them so that the document should be the only appropriate evidence of the agreement and its terms. the document is a memorandum liable to be stamped under this Article. See (1814) 105 ER 446 (446) ** (1814) 105 ER 442 (442).

(4) If the main purpose of the instrument is something else and it merely recites in an incidental manner, a contract already made between the parties, it will not be a "memorandum of agreement" under this Article. (1846) 9 QB 779 (791) = 16 LJ QB 5.

(5) A "memorandum of agreement" under this Article must be an instrument drawn between the parties to the agreement. (1824) 171 ER 1223 (1223, 1224) = 1 C and P 341.

(6) An instrument which merely contains a proposal or offer is not an "agreement." **(1889) 13 Bom 669 (669) (FB) ** AIR 1940 Mad 379 (382) = ILR (1940) Mad 487 (FB)** (1850) 137 ER 1036 (1039) = 19 LJCP 321. (Letter offering employment.) ** (1849) 19 LJ Ex 15 (19) = 4 Ex 681. (Counter-offer.)

(7) Though an offer in writing may be accepted without any writing and such acceptance creates a contract, the document remains only an offer and will not require a stamp. **AIR 1940 Mad 379 (382) = ILR (1940) Mad 487 (FB) ** AIR 1915 Mad 778 (779) = 38 Mad 349 (FB).**

(8) Where the document is an acceptance in writing of an oral proposal the document will amount to an agreement in writing. (1854) 139 ER 258 (259) = 23 LJ CP 151.

(9) A voucher given to a shopkeeper by a person buying on credit is not an "agreement" or memorandum of agreement. **AIR 1935 Lah 567 (568) = 17 Lah 1 (SB).**

(10) Overdraft agreement with Bank reciting pledge of hire purchase agreement and negotiable instruments in possession of bank as collateral security, providing for

Article 5 — Note 1 (contd.)
Act of such movables — 'Instrument' is not an agreement under Article 5 but an agreement relating to a pledge of movables under Article 6. **AIR 1966 Mad 177 (179) = (1966) 1 MLJ 6 (FB).**

2. Clause (b).— (1) By a document the executant purported to sell his interest in certain receipts for a company's shares purchased by him from the creditors of that company; he passed the document merely as a receipt acknowledging payment to him of some money by the intended vendee undertaking that a formal document of sale shall be executed when desired by the vendee. It was held that the document was merely an agreement. **(1890) 14 Bom 316 (317) (FB).**

3. Agreements not otherwise provided for — Clause (c). — Agreement and mortgage.— (1) An agreement under which the mortgagee agrees to an extension of the period of redemption and the mortgagor agrees to pay interest at an enhanced rate is not a fresh mortgage but an agreement falling under clause (c). **AIR 1925 All 501 (502) = 47 All 310 (FB).**

(2) In the following case the instrument was held to comprise three distinct matters, viz., a mortgage, a power-of-attorney and an agreement. **AIR 1945 Lah 69 (72, 74) = ILR (1946) Lah 185 (SB).**

(3) A document under which a contractor doing work for the Government agreed that a percentage of the moneys that may become payable to him may be retained by the Executive Engineer to cover compensation for default on the contractor's part and as security for the proper performance of the contract was held to amount to an agreement and not a mortgage. (1884) 7 Mad 209 (210).

(4) Where a muchalka stated that the executant licensee agreed to all the conditions in the licence, one of which was that as security for the due performance of the contract the licensee shall deposit with the Collector a sum equal to three months' rental. it was held that the muchalka was required to be stamped under this clause and not as a mortgage. **(1892) 15 Mad 134 (135) (SB).**

(5) Where an agreement between the Secretary of State and a salt contractor stated that the contractor had deposited certain promissory notes to secure the due performance of his contract, it was held that the document required to be stamped as a mortgage-deed. **(1888) 11 Mad 39 (40) (SB).**

(6) Mortgage for Rs. 10,000 — Mortgage deed providing for further advances on same security — Accordingly Rs. 7,000 advanced from time to time — Document adjudged by Collector under Section 31 as a mortgage and an agreement falling under Sch. 1-A, Articles 33 and 4 (c) (Mad) respectively — Collector certifying document as duly stamped on payment of deficit duty and penalty — Suit on mortgage — Certificate of Collector excludes operation of Section 26. AIR 1946 Mad 437 (441) = ILR (1947) Mad 141.

(7) Delivery of possession of property in lieu of repayment of debt — Agreement not containing either any obligation to repay or creating any security for its repayment — Transaction not a usufrutuary mortgage but an agreement. (1962) 40 Mys LJ 669 (670).

Agreement and lease

(8) Even if a document purporting to be a lease but not reserving any rent is held to fall within the definition of Section 2 (16), no stamp duty is provided for such an instrument under Article 35. It is chargeable under this clause as an agreement not otherwise provided for. **(1901) 3 Bom LR 401 (402) (FB).**

(9) A lease of movable property would be chargeable under this clause. **AIR 1914 All 259 (259) = 36 All 11 (FB)** ** (1934) Pun SM Part I B, Ch. 3, p. 2 (XI).

(10) A licence is chargeable as an agreement under this clause. **AIR 1925 Mad 434 (435) = 48 Mad 368 (FB).**

(11) An agreement to lease land under certain contingencies which may or may not happen is not chargeable under Article 35, but as a simple agreement under this clause. AIR 1928 Bom 553 (555, 556) = 53 Bom 1 (DB) ** **AIR 1952 Bom 199 (Pr 3) = ILR (1952) Bom 881 (SB).**

(12) Where by a rent note A agreed to take from B a certain pasture ground for grazing a certain number of cattle at a certain consideration it was held that the agreement was not a lease within the meaning of Section 3 (12) of Act I of 1879; but the document was chargeable under this clause. **(1889) 13 Bom 87 (89. 90) (FB).** (Nanabhai Haridas J. dissentiente.)

(13) An agreement varying the rent or any other stipulation of an existing lease, other than an agreement by which the period of that lease is extended, would not come within the definition of "lease" as given in Section 2 (16). Such instrument, therefore, requires a stamp duty of Re. 1 under Article 5 (c): Where however, the agreement extends the period of an existing lease, it would be regarded as a lease for the period by which the original period is extended and stamp duty would have to be calculated in terms of Art. 35. **ILR (1948) 2 Cal 323 (331) (SB).**

Agreement and conveyance

(14) Where a document recited that in consideration of certain debts certain paddy land was delivered to the creditor but, apart from the use of the word "agreement" in two places, showed that the transaction had not passed the stage of a contract for sale and contained a promise to perfect the title by executing a registered deed of conveyance later, it was held that the document was chargeable under this Article and not under Article 23. AIR 1931 Rang 193 (194).

(15) The mere offer to execute and register a sale deed at a later date does not take away the effect of a clear recital transferring the title and interest of the vendor to the vendee or change the character of a document from a sale to an agreement to sale. The mere use of the word sell agreement is not conclusive also. AIR 1961 Andh Pra 424 (426).

(16) Where by an instrument a mortgagor relinquished his title to the mortgaged property in favour of the mortgagee (in consideration of the mortgage-money and an additional sum of Rs. 50) also agreed to pay the Government assessment until the

Article 5 — Note 3 (contd.)

land was transferred in the Collector's books to the mortgagee's name, it was held that the document was a conveyance and also an agreement to pay the assessment. **(1891) 15 Bom 675 (677) (FB)** ** (1933) Mad SM p. 76.

(17) Where a purchaser of the ryotwari rights in Government waste lands executed a document in favour of the Government. undertaking to pay the purchase money in nine equal instalments and the lands were to remain the property of the Government until the last instalment was paid, and where the purchaser was to pay the assessment and cess as they fell due and if he failed to pay any instalment or the assessment or cess the Government had the right to re-enter upon the lands at once without paying any compensation, all previous instalments paid being forfeited to the Government, it was held that the document was chargeable under this clause. (1933) Mad SM p. 72-73.

(18) See also the undermentioned case. **AIR 1959 All 595 (597) = ILR (1959) 1 All 652 (SB).** (Particulars filed with Registrar under Section 104, Companies Act — No deed of conveyance executed — Agreement held was chargeable with duty under Article 5 (c), Sch. 1-B.)

(19) Document relating to sale of truck — Document providing for payment of price in instalments and also for interest on unpaid price — Document also entitling seller to seize truck and keep it with him if instalments are not paid in time and sell it thereafter — **Held,** document was not exclusively agreement or Memorandum of agreement relating to sale of goods falling within exemption (a) to Article 5 — Document was chargeable with duty as agreement and not as conveyance. AIR 1969 Raj 313 (315) = 1969 Raj LW 248.

(20) Mortgagor handing over possession of mortgaged property to mortgagee — Mortgagee to pay fixed amount to mortgagor for maintenance after deducting expenses of collection and to appropriate surplus income towards mortgage debt — Not a conveyance under Article 28 nor a mortgage, under Article 40 but an agreement liable to stamp duty under Article 5. AIR 1965 Mad 192 (193) = 77 Mad LW 704.

Agreement and security-bond

(21) A combination of nokarnama (agreement of service) and security bond by the surety for the servant has been held chargeable under this article for nokarnama and under Article 57 for the security-bond. AIR 1924 Nag 408 (409).

Agreement and partition

(22) An agreement to divide property in future is chargeable under this clause and not under Article 45. AIR 1933 Mad 162 (162) ** **(1884) 7 Mad 385 (387) (SB).**

Agreement and settlement

(23) Where an unattested document contained an undertaking by the eldest son of a Hindu family to pay maintenance to his parents (the document was executed by the son and the parents) it was held that the document was an "agreement not otherwise provided fór" and not a settlement deed. (1933) Mad SM p. 69.

(24) A executed a document in favour of his father, B. It recited that immovable properties to the value of Rs. 7,000 had been assigned to him for the maintenance of his family by B who retained the remaining properties worth Rs. 3,000 for the maintenance of himself and his wife. It was agreed that neither A nor B should mortgage or sell these properties without the consent of the other and the properties retained in possession of B should revert to A after the death of both B and his wife — **Held** that the document was not a "settlement" nor a partition-deed but was an "agreement not otherwise provided for." (1933) Mad SM p. 72.

Agreement and declaration of trust

(25) Where by a document certain Hindu coparceners agreed among themselves that one of them should become managing member of the coparcenary and that he should manage the property in the manner laid down in the document, it was held that no trust was created by the document and it was chargeable as an agreement only. (1933) Mad SM p. 71.

Agreement and receipt

(26) A before his death. deposited with B certain ornaments and two promissory notes. A during his life-time, had made a will and appointed C and D his trustees. A document was passed by C and D in favour of B when B made over the ornaments to C and D. A postscript was added by which C and D agreed that the two promissory notes should be returned by B when the widow of A made over to B a certain house. In a suit for return of the promissory notes against B reliance was placed by him on the postscript. It was held that the document required a stamp of eight annas under Article 11. Sch. II of the Act of 1869. **(1880) 4 Bom 328 (329) (FB).**

(27) A gave on the 8th of a month a letter to B in which A stated that the amount due to him from B on a settlement of accounts between them was Rs. 1,500 and undertook to transfer certain lands by a registered document without taking any consideration for the same to give up puja service in a temple and to hand over the jewels, ornaments and vessels of the temple. At the foot of this letter B's agent made an entry on the 18th of the month, acknowledging receipt of the jewels. ornaments, vessels, etc. The Board of Revenue Madras held that the letter was chargeable under this clause and that the entry by B's agent was not liable to duty as a receipt under Section 2 (23) (b). (1933) Mad SM p. 74.

(28) Where the document amongst several other things clearly mentioned that a particular house was to be sold for Rs. 10,000 and that the payment of Rs. 2,900 was made through two cheques and further stated that the balance of the money might be paid within three years at the convenience of the purchaser and there was an undertaking that a registered sale-deed would be executed, the registration expenses being borne by the vendee and there was also reference to the fact that the vendee was already in possession of the house. it was held that the document was an agreement to sell and not merely a receipt for the sum of Rs. 2,900 and

Article 5 — Note 3 (contd.)
it, therefore, should have been scribed on a stamp of As. 8. AIR 1954 Ajmer 45 (Pr 4).

Hire-purchase agreements

(29) A document containing a hire-purchase agreement is chargeable under this clause and not as conveyance. **AIR 1917 Cal 71 (77) = 44 Cal 72 (SB).**

Agreement and vakalatnama

(30) A stipulation for the payment of a certain remuneration to a pleader in advance contained in a vakalatnama is not liable to additional stamp duty as an agreement. See Note 3 on S. 2 (21) ** AIR 1936 Cal 814 (815) = ILR (1937) 1 Cal 461 (DB).

(31) A vakalatnama containing a special agreement stipulating for a reward of a large amount for the pleader's professional services beyond the ordinary rate and including a claim for a share of the proceeds recoverable in the suit. required additional stamp for the agreement. (1968) 3 Agra HCR 286 (288) (DB).

Miscellaneous agreement

(32) The relationship between the Company and its Managing Agent is governed by the same principles as regulate the relationship between master and servant. And an agreement between them is an ordinary service agreement chargeable with stamp duty as an agreement under Article 5, and is not an "appointment in execution of a power". AIR 1956 All 25 (26) = ILR (1956) 1 All 188 (SB).

(33) Deposit of shares as security for repayment of overdraft accounts — Documents deposited are marketable securities within Section 23-A — Duty payable on the instrument is under Article 5 (c). **AIR 1968 Mad 279 (279) = (1968) 1 Mad LJ 381 (FB).**

4. Agreement contained in several letters.— (1) An agreement is liable to stamp duty although it is contained in a series of letters or correspondence and not a single document. (1890) 17 Cal 548 (556).

(2) See also proviso (c) to Section 35.

5. Attestation.— (1) Attestation of agreement by a witness does not convert "agreement" into a document of some other description for purposes of stamp. (1933) Mad SM p. 71.

6. Bond and agreement.— (1) This Article does not apply to a "bond." **AIR 1931 All 392 392 (393) (FB).**

(2) An unattested agreement to do or forbear from doing any act with a penal clause providing for the payment of a certain sum of money in case of breach of contract is not a "bond", if it is not covered by any other Article it will be liable to be stamped under Clause (c). (1882) 8 Cal 284 (286) (DB) ** (1891) 14 Mad 18 (20) ** AIR 1915 Low Bur 70 (71) = 8 Low Bur Rul 155 ** **AIR 1972 All 466 (469) = 1972 All LJ 618 (FB).**

(3) Loan of grain in consideration of repaying a larger measure of grain, held bond within Section 3 (4) (b) of Act of 1879 and not 'agreement'. (1883) 7 Bom 137 (139) (DB).

(4) Where a document containing the undertaking to pay the purchase money respecting the sale of resin to be removed from the forests in consideration of the price is executed by the purchaser and the Forest Authorities and is also attested by the witnesses that document is a bond and not a mere agreement of sale of goods. **AIR 1971 All 430 (432) = 1971 All LJ 640 (FB)**

(5) Agreement in execution proceedings to pay by certain instalments held to be mere agreement and not 'bond' under Act of 1869. (1881) 3 All 781 (786) (DB).

(6) Agreement to lend money etc. does not create any obligation to pay money and so does not constitute bond. **(1909) 33 Bom 426 (428) (SB).**

(7) Indemnity note to railway company by consignee of goods held not to be bond but mere agreement as no obligation to pay money was necessarily implied. **(1881) 5 Bom 478 (480, 481) (FB).**

(8) Agreement to pay a pleader a certain amount (over the agreed fee) if the accused were acquitted (and nothing if they were convicted) which was attested by witnesses was held to be a bond within Section 3 (5) of Act XVIII of 1869. 1870 Pun Re No. 82, p. 209 (210) (DB).

(9) Unattested document described as a promissory note whereby a person bound himself to deliver certain quantity of grain on demand — **Held**, it was neither a promissory note nor a bond but only an agreement under Article 5 (c). AIR 1924 Oudh 106 (106) = 26 Oudh Cas 383.

(10) Sale of trees for price recoverable in instalments — Price charged upon the property sold — Document stamped as agreement — Document held was bond and not agreement. **AIR 1957 All 391 (394) = ILR (1958) 1 All 1 (SB).**

7. Agreement and promissory note.— (1) Instrument containing a promise to pay an unspecified sum will not be chargeable as a promissory note but as an agreement. (1833) 110 ER 589 (589) = 2 LJ (NS) KB 104 ** (1818) 171 ER 677 (678) = 20 RR 694.

(2) An instrument containing a promise to pay money as part of a contract containing other stipulations was held chargeable as an agreement. (1881) 21 QBD 352 (355) = 57 LJQB 630.

(3) The instrument was held to be an agreement and not a promissory note because it was not intended to be a promissory note. AIR 1923 Cal 659 (662) (DB).

(4) In a promissory note there must be an unconditional promise to pay. **(1904) 27 Mad 1 (3) (FB)** ** (1849) 4 Ex 200 (210) = 18 LJ Ex 393.

(5) Where there was no express promise to pay, the document was held chargeable as an agreement and not as a promissory note. (1888) 15 Cal 150 (151) (DB).

(6) Accounts settled and khata executed on separate piece of paper — Two payees having no joint transaction — Addition of entry on debit side — Document held not to be a promissory note but agreement. 1961 Raj LW 569 (572).

8. Agreement altering terms of prior instrument.— (1) A subsequent agreement between the parties to a contract in writing, altering terms of the contract, is liable to

Sch. I Article 5 — Note 8 (contd.)
be stamped as an "agreement" under Cl. (c). AIR 1943 All 218 (219) ** **ILR (1948) 2 Cal 323 (331) (SB).** (Agreement varying rent or any other stipulation of an existing lease other than one extending period of lease is not a lease but an agreement under Article 5 (c).)

9. Instrument containing several matters.— (1) Where an instrument amounts to an "agreement not provided for elsewhere" and some other matter or matters it will be liable to the highest duty chargeable under Sch. I in respect of the document. AIR 1946 Mad 437 (441) = ILR (1947) Mad 141. (Mortgage for Rs. 10,000 — Deed providing for further advances on same security — Rs. 7000 advanced from time to time — Document adjudged by Collector as mortgage and agreement under Article 33 and Article 4 (c) of Schedule IA (Mad).)

(2) Where the instrument comprises several distinct matters one of which is an "agreement not provided for elsewhere," the duty payable would be the aggregate amount that would have been chargeable had a separate instrument been executed in respect of each matter. **(1909) 33 Bom 426 (428) (FB) ** AIR 1961 Mad 504 (511) = ILR (1961) Mad 926 (FB) ** AIR 1945 Lah 69 (74) (SB) ** (1888) 11 Mad 216 (218) (SB)** ** AIR 1924 Nag 409 (409).

(3) Where the instrument contains several distinct agreements, it is chargeable with an aggregate amount of duty that would have been payable if a separate instrument had been executed in respect of each agreement. 1883 Bom PJ 277 ** **(1900) 10 Mad LJ 378 (381) (FB).**

10. Reference to Arbitration.— (1) An agreement by the parties to refer their dispute to arbitration requires to be stamped under Clause (c). **1883 Bom PJ 151 (FB)** ** AIR 1924 Cal 794 (795) (DB).

(2) Separate letters written by the parties authorising arbitrators to arbitrate between them do not require any stamp. (1895) 19 Bom 32 (33) (DB).

(3) The parties drew up a reference to arbitrators. One of the three arbitrators named in the reference refused to act and another person was, by written agreement, appointed in his place. This latter document was held not liable to any stamp duty. AIR 1924 Cal 794 (795) (DB).

(4) A letter signed by both A and B but containing a request to C for the appointment of arbitrators and the issue of an award does not require a stamp. (1909) 36 Cal 736 (743) (DB).

(5) A provision to refer to arbitration contained in a bought and sold note does not come under Section 5 or Section 6 but is sufficiently stamped under Article 43. (1912) 39 Cal 669 (677) ** (1913) 40 Cal 219 (229) (DB). (13 Cal WN 63, **Reversed.**) ** AIR 1916 Sind 86 (92) = 10 Sind LR 14.

11. Compromise petition.— (1) A petition was filed in an execution proceeding, on behalf of the decree-holder, judgment-debtor and surety for the judgment-debtor, stating the terms of the tripartite agreement and praying for withdrawal of the execution case. It was held that it must be stamped not only as a petition but also with a further stamp appropriate to a contract of guarantee. AIR 1926 Cal 877 (877, 878) = 53 Cal 515 (DB).

(2) If a compromise petition merely contains a recital of a previous agreement it does not require a stamp. (1908) 12 Cal WN 59 (60) (DB) ** (1867) 8 Suth WR 214 (215) (DB). (Petition praying removal of suit from file as compromised.) ** **(1885) 8 Mad 15 (17) (SB).** (Do.) ** AIR 1918 All 307 (308) = 40 All 19 (DB). (Petition praying for a decree in terms of compromise.)

(3) In an execution case the judgment-debtor filed a solenama under which he obtained time from the decree-holder on condition that he would pay in full, the entire decretal amount and if he failed to do so the decree-holder might take possession of a certain land. It was held that the document amounted to a deed of conditional transfer by way of mortgage; it was not a mere "agreement or memorandum of agreement" to effect a future mortgage; it was not also a mere petition informing the Court that an oral contract had come into existence. **1883 All WN 93 (96) (FB).**

(4) Where the document is neither a petition of compromise presented to a Court, nor a recital of past transactions but on the other hand itself declares rights in immovable property worth more than Rs. 100, it requires registration under Section 17, Registration Act. Further, it requires to be properly stamped under the provisions of the Stamp Act.. AIR 1956 Him Pra 41 (42).

12. Acknowledgment of debt coupled with promise to pay.— (1) An agreement by A with B to pay a debt due by C to B requires to be stamped under Clause (c) and not under Article 1 as there is no debt actually due by A. **1880 Bom PJ 324 (FB).**

(2) Where an acknowledgment is not intended to be used as evidence of the debt the instrument may be chargeable as an agreement under this article. (1898) 8 Mad LJ 66 (68) (DB).

(3) Acknowledgment containing a promise to pay the debt has been expressly excluded by the proviso to Article 1 from the applicability of that article. Such acknowledgment may fall under Cl. (c) of this article. AIR 1936 Cal 399 (400) (DB). (Acknowledgment followed by words "We are going to repay the whole debt soon.") ** AIR 1953 Raj 211 (Prs 7, 9) = ILR (1952) 2 Raj 879 (DB). (Balance of previous account struck in khata of debtor in account book of creditor — Certain rate of interest also recorded — Document at best can be considered to be an agreement and not a promissory note though containing a promise to pay.) ** **AIR 1942 Lah 50 (54) = ILR (1942) Lah 282 (FB).** (Balance couched in words: "baqi rahe lene.") ** AIR 1939 Lah 486 (488). (Balance struck in account book of creditor followed by entry 'baqi rahe lene' with signature of debtor.) ** AIR 1938 Lah 511 (512). (Where a balance is struck in the account-book of a creditor and is followed by a statement "baqi rahe lene lekha ker ke charso tees rupya" which is signed by the debtor.) ** AIR 1938 Lah 503 (505) (DB). (Balance struck by debtor followed by words "baqi rahe" and signed by him.) ** AIR 1934 Lah 730 (732) (DB). (A document ran as follows: "Accounts have been settled with you today ... Rs. ... have been credited to your account as per details below

Sch. I Article 5 — Note 12 (contd.)
... I will send the above amount to you soon." Held, it was not an acknowledgment.) ** AIR 1931 Lah 631 (631) (DB). (Where an entry in a bahi purported to be an unconditional acknowledgment and implied a promise to pay the sum mentioned — **Held** that the entry should be stamped as an agreement.) ** AIR 1934 Mad 25 (26). (An entry in creditor's account book made by debtor that "the sum will be paid by me immediately" should be stamped as an agreement.) ** AIR 1938 Nag 464 (464).

(4) An entry in the creditor's register by the hand of the debtor that the money would be repaid on a certain date signed by him but not attested was held not to amount even to an "agreement" under this article. 1903 All WN 174 (175).

13. Acknowledgment of debt with stipulation to pay interest.— (1) The stipulation, in an acknowledgment to pay interest renders the document a memorandum of agreement to pay interest chargeable under Clause (c). AIR 1934 All 1052 (1053) (DB) ** **(1901) 25 Bom 373 (375) (FB).** (Implied stipulation to pay interest.) ** **(1908) 35 Cal 111 (113) (FB)** ** AIR 1958 Raj 72 (74) ** AIR 1957 Raj 65 (68) = ILR (1956) 6 Raj 505 (DB) ** AIR 1930 Oudh 194 (195) = 5 Luck 218 (DB).

[See also AIR 1953 Raj 211 (Prs 7, 9) = ILR (1952) 2 Raj 879 (DB). (Balance of previous account struck in khata of debtor in account book of creditor — Certain rate of interest recorded — **Held** document at best can be considered to be an agreement and not a promissory note though containing a promise to pay.)]

(2) Where the top portion of a sarkhat containing the agreement to pay interest was signed by the party and below the signature there were several items of the credit and the debit side, it was held that the portion above the signature constituted an "agreement", but the rest of the document did not constitute a separate agreement as it was not "executed" within the meaning of Section 2 (12). **AIR 1928 All 162 (163) = 50 All 504 (FB).**

[See also AIR 1958 Raj 260 (261). (AIR 1957 Raj 65, **Followed.**) ** AIR 1957 Raj 65 (68) = ILR (1956) 6 Raj 505 (DB). (Entry regarding payment of interest made at top of khata — Acknowledgment regarding certain sum written and signed by A on same date — Second item entered some time after when that amount was borrowed — A held meant to pay interest on all amounts entered in khata subsequently — Second entry held amounted to agreement.)]

14. Agreement relating to deposit of title deeds.— (1) A letter merely stating the terms on which an equitable mortgage has been effected has been held not to fall under article 6 but under Clause (c) of this article. AIR 1917 Mad 799 (800).

(2) Where, in order to guarantee advances by a bank to K, Y endorses a promissory note and delivers it to the bank there is no deposit of the promissory note. Hence, instrument containing the terms of the guarantee is not chargeable under Article 6 but under Clause (c) of this article. **AIR 1933 Rang 31 (32) = 11 Rang 145 (FB).**

(3) Deposit of title deeds and execution of Articles of Agreement regarding repayment of loan — Bargain relating to deposit of title deeds not embodied in the Articles of Agreement — As the instrument by itself did not evidence any deposit of title deeds it would fall under article 5. **(1968) 1 Mad LJ 96 (98) (FB).**

15. Promise to pay time-barred debt.— (1) Where the promise to pay a time-barred debt amounts to an agreement in the strict sense, it will both fulfil the requirements of Section 25 (3) of the Contract Act and be chargeable with duty as an "agreement" under this article. AIR 1923 Cal 659 (662) (DB).

(2) Where the promise to pay a time-barred debt does not amount to an agreement in the strict sense, it will not be liable to be stamped although it may be quite effective for the purpose of Section 25 (3) of the Contract Act. AIR 1923 Lah 481 (483) (DB).

16. Exemption (a).— (1) Exemption (a) should be liberally construed. (1867) 36 LJ QB 81 (85) = 15 WR (Eng) 345.

(2) The onus of showing that an instrument is covered by the exemption is on the party relying on the exemption. (1843) 134 ER 560 (563) = 12 LJCP 147.

Sale

(3) An exchange is not a sale for the purpose of the exemption. **(1901) 25 Bom 696 (698) (FB)** ** (1888) 11 Mad 459 (468).

(4) Where essentially the transaction is a sale, the mere fact that part of the consideration is agreed to be paid in kind will not make it an exchange. AIR 1937 All 190 (191) ** (1855) 11 Ex 190 (192, 193) = 156 ER 795.

Goods or merchandise

(5) For the definition of "goods" see the Sale of Goods Act. Section 2 (7).

(6) An agreement for work and labour is not a contract for sale of goods. (1856) 109 ER 461 (463) = 25 LJ Ex 237 ** (1829) 172 ER 608 (608) = 8 LJCP 65.

(7) The expression "goods or merchandise" is not an equivalent for "movable property". **(1897) 22 Bom 785 (786) (FB).**

(8) An agreement for the sale of standing timber to be cut and removed by the purchaser is one within the exemption. **AIR 1931 All 392 (393) (FB) ** (1897) 22 Bom 785 (787) (FB).**

(9) An agreement for the sale of sugarcane crop is an agreement for the sale of goods. **AIR 1941 All 243 (253) = ILR (1941) All 471 (FB)** ** AIR 1951 Pat 9 (Prs 5, 9) = 29 Pat 955 (DB). (Agreement for sale of sugarcane crop and its mortgage — Document is chargeable with higher duty under Article 5 (c) — Exemption (a) does not apply.)

(10) A contract with a water company for the supply of water to the premises has been held to be an agreement for sale of goods. (1829) 172 ER 619 (620) = 4 C & P 87 (89).

[See however (1933) Mad S M p. 76.]

(11) An agreement for the sale of an undivided moiety of a horse has been held to be an agreement for the sale of goods. (1835) 132 ER 47 (48, 49) = 4 LJ(NS) CP 270.

AGREEMENT TO LEASE. See LEASE (No. 35).

[2][6. **AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE.** that is to say, any instrument evidencing an agreement relating to—

(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or

(2) the pawn or pledge of moveable property, where such deposit, pawn or

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(12) Agreement for sale of motor-cycle is an agreement for or relating to sale of goods or merchandise. (1954) 1 All ER 855 (856).

(13) An agreement for the sale of future goods is an agreement for the sale of goods within the exemption. **1882 Bom PJ 195 (FB).** (Contract for future delivery of titles.) See also Section 6 of the Sale of Goods Act.

Nature of instruments covered by the exemption

(14) Where the document is a memorandum of a completed sale, it will be a memorandum of an agreement and as such will be within the exemption. Such a memorandum will not be a conveyance. AIR 1937 All 190 (191) ** AIR 1934 All 201 (203) = 56 All 680 (DB).

[See however (1848) 2 Ex 778 (781) = 17 LJ Ex 266. (Memorandum that T has sold to G all the goods, stock in trade and fixtures in a certain shop — **Held** that this was a conveyance, not an agreement for sale of goods.) ** **AIR 1935 Lah 567 (568) = 17 Lah 1 (SB).**]

(15) A warranty of the goods sold is an agreement relating to sale of goods. (1810) 170 ER 1199 (1199) = 11 RR 754.

(16) For the applicability of the exemption, it is not essential that the agreement should be one between the vendor and purchaser. (1861) 175 ER 1118 (1119) = 2 F & F 408 (408).

(17) A contract by a third person guaranteeing the payment of price by the purchaser will be within the exemption. (1847) 153 ER 1403 (1404) = 16 LJ Ex 178.

(18) Where the agreement relates to the sale of goods or merchandise and also to some other matter, the exemption will not apply. **(1909) 19 Mad LJ 35 (41) (FB) ** AIR 1957 All 391 (394) = ILR (1958) 1 All 1 (SB).** (A executing document in favour of B by which A in consideration of payment of certain price in instalments selling trees to B — Document held to be bond and not mere agreement.) ** AIR 1951 Pat 9 (Pr 4) = 29 Pat 955 (DB). (The word 'exclusively' in Schedule I, Article 5, Exemption (a) governs the entire clause and not only the words "goods or merchandise" — Minority view of Verma and Mulla JJ. in AIR 1941 All 243, Rel on.) ** (1909) 2 KB 604 (608, 609) = 78 LJKB 1158 ** (1843) 134 ER 560 (563) = 63 RR 279.

(19) The exemption will not apply to an agreement relating to the sale of goods. 1837 132 ER 505 (505) = 43 RR 726. (Agreement for sale of goods and good-will.)

(20) Where the agreement is essentially one for or relating to the sale of goods the inclusion of subsidiary or collateral matters within the agreement will not take it out of the exemption. **AIR 1936 All 481 (484) = 58 All 1083 (SB) ** AIR 1931 All 392 (393) (FB) ** (1892) 15 Mad 150 (152) (FB) ** (1887) 10 Mad 27 (27) (SB)** ** (1852) 18 QB 321 (324, 325) = 21 LJQB 279 ** AIR 1967 Mad 190 (191) = (1966) 1 MLJ 301.

[See however **(1901) 5 Low Bur Rul 157 (158, 159) (SB).**]

(21) Where an instrument comprises an agreement relating to the sale of goods and also some other distinct transaction the exemption will apply to the agreement and the instrument will be liable to duty only in respect of the other transaction. **AIR 1941 All 243 (247, 253, 271) = ILR (1941) All 471 (FB).** (Per majority of Full Bench — Verma and Mulla JJ., contra).

[See however **AIR 1936 All 481 (483) = 58 All 1083 (SB).**]

(22) Where an instrument comprises two distinct agreements one of which relates to a sale of goods and the other does not, the former agreement will be exempt from duty and the latter will not. **AIR 1931 All 392 (393) (FB)** ** AIR 1947 Bom 343 (344) = ILR (1947) Bom 28.

ARTICLE 6 — SYNOPSIS

1. Clause (1).

2. "Pawn or pledge."

3. Exemption.

1. Clause (1).— (1) A letter merely referring to the fact of deposit of title deeds or a confirmatory letter written subsequently does not fall under Clause (1). AIR 1917 Mad 799 (801) ** AIR 1932 Sind 73 (75) = 26 Sind LR 29 ** (1900) 27 Cal 587 (593) (DB).

(2) An instrument purporting to be a letter of collateral security for a loan contained a provision that if within a certain period the principal and interest were not repaid the creditor might recover the same by proceeding against a specified property and the executant personally. There was no transfer of right over the property. It was held that the document was liable to duty under this article. 1933 Mad SM p. 79. (Citing B. P. 1357-R., Mis. 1st November 1912.)

(3) What is intended by Article 6 is a document which should merely contain the bargain between the parties with regard to the deposit of title-deeds and may be condition subsidiary or ancillary to the deposit

pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.
Exemption	
Instrument of pawn or pledge of goods if unattested.]	

[1879—Art. 29; 1869—Sch. II, Art. 21; 1862—Sch. A, Arts. 13, 46, 47; 1860—Sch. A, Arts. 36, 41.]

[°] Substituted for the original article by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), S. 8.

7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immovable, where made by any writing not being a will.	Fifteen rupees.

[1879—Art. 6; 1869—Sch. II, Art. 35.]

Sch. I Article 6 — Note 1 (contd.)

of title deeds. But if a document contains all the provisions which one would normally find in a mortgage-deed, then the mere fact that the document also contains the bargain with regard to the deposit of title-deeds will not make it an agreement for the deposit of title-deeds. **AIR 1954 Bom 462 (Pr 2) = ILR (1955) Bom 121 (SB) ** AIR 1968 Mad 223 (224) = (1968) 1 MLJ 96 (FB) ** AIR 1967 Mad 1 (2) = (1966) 2 MLJ 92 (FB).**

(4) Where in order to guarantee advances by a bank to X, Y endorses a promissory note and delivers it to the bank there is no deposit of the promissory note. Hence, an instrument containing the terms of the guarantee in the above case is not covered by this article. **AIR 1933 Rang 31 (32) = 11 Rang 145 (FB).**

(5) The instrument deposited must be evidence of the title to any property whatever other than a marketable security. (1933) Mad SM p. 78. (Citing B. P. 1680, Mis 7th December. 1909.)

(6) A Pass Book of the Post Office Savings Bank is not a marketable security. (1933) Mad SM p. 79. (Citing B. P. 719-R., Mis 30th June, 1914.)

(7) Letters of hypothecation accompanying a promissory note are not exempt from duty under Article 40, Exemption (2) and may be chargeable under this clause. (1933) Mad SM p. 78. (Citing B. P. 297; 29th April 1889.)

2. **"Pawn or pledge".**— (1) The expression "pawn or pledge" covers contracts whereby all kinds of chattels or choses in action are made security for the payment of debt. **AIR 1945 Lah 69 (73) = ILR (1946) Lah 185 (SB).**

(2) A pledge involves the retention of general property in the thing pledged by the pledgor, while only a special property passes to the pledgee. (1886) 17 QBD 690 (701) = 55 LJQB 490.

(3) Where a person standing guarantee for a customer of bank, endorsed a promissory note in favour of the bank, and delivered it to the bank it was held that the transaction was not a pledge. **AIR 1933 Rang 31 (32) = 11 Rang 145 (FB).**

(4) Where delivery of possession either actual or constructive is not made, the transaction is not one of pledge. (1894) 21 Cal 241 (244) ** **AIR 1945 Lah 69 (73) = ILR (19** Lah 185 (SB)** ** (1886) 17 QBD 690 (697) = 55 LJQB 490 ** (1868) 3 Ex 299 (302) = 37 LJ Ex 174 ** **AIR 1968 Mad 279 = (1968) 1 MLJ 381 (FB) ** AIR 1968 Mad 319 (324) = (1968) 2 Mad LJ 1 (FB).**

(5) Where the goods themselves have been handed over to the Bank in whose favour document has been executed by way of security the goods in respect of which the document was executed became pledged within the definition of 'pledge' in Sec. 172 of the Contract Act. The document in question is chargeable with duty under Art. 6. AIR 1958 All 864 (865) ** (1968) 38 Com Cas 620 = ILR (1968) 1 All 394 (DB) ** AIR 1958 All 864 (865) = 1958 All LJ 659 (DB).

(6) Hire purchase agreements — Agreement to pledge such agreements — Schedule I. Article 6 applies. **AIR 1966 Mad 177 = (1966) 1 Mad LJ 6 (FB).**

3. Exemption. — (1) An entry in an account book evidencing a loan made on the pledge of jewels and signed by the borrower without being attested was as follows: "Credited to A, son of B. (description of jewels pledged) interest at Re. 1 per cent, (Rupees one hundred and fifty) .....A." It was held that exemption under this clause was applicable. (1933) Mad SM p. 79. (Citing BP 464R., Mis., 8th April. 1910).

Article 7 — Note 1

(1) An instrument by which the executant in his capacity as owner, makes over a certain house for his sister-in-law's occupation during her life is not an "appointment" within this Article. Such an instrument is charge-

8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for such amount.
(b) in any other case	Five rupees.
Exemptions	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
[1879—Art. 7; 1869—Sch. I, Art. 21.]	
9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).	Five rupees.
Exemption	
Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.	
[1879—Art. 31.]	

Sch. I Article 7 — Note 1 (contd.)

able as a "settlement" under Article 58 of the Act. 1887 Bom PJ 243.

(2) Where A executes a will appointing B as the executor and vesting in B the power to nominate some one as the owner of the property and B, the executor, executes a document nominating C as the owner of the property the document is an "appointment in execution of power." **AIR 1956 All 25 (26) = ILR (1956) 1 All 188 (SB).**

(3) Where a person left a will whereby he bequeathed to his executors a certain sum of money for establishing such charitable institution as they thought fit and the executors then joined in the execution of a document of trust for certain charitable purposes in respect of the fund bequeathed by the will, it was held that the instrument qua such fund was chargeable as an "appointment" under this Article. **(1911) 35 Bom 444 (447) (SB).**

(4) Where by a will the founder of a religious endowment gives a power to a punch of the community to enquire into the misconduct of a shebait and to remove him from the office and to appoint a new shebait in his stead and the punch in exercise of such power removes a shebait and appoints a new shebait in his place, by a punchnama, the instrument is chargeable under this Article. AIR 1919 Cal 730 (737).

(5) An agreement between a company and its managing agent is an ordinary service agreement chargeable with stamp duty under Article 5 and is not an "appointment in execution of a power" within the meaning of this Article. **AIR 1956 All 25 (26) = ILR (1956) 1 All 188 (SB).**

Article 8 — Note 1

(1) If there is no written valuation or inventory of the things valued, an agreement to purchase those things at a valuation requires no stamp. (1858) 175 ER 746 (746) = 1 F and F 321.

(2) If a valuer speaks of the value of goods from recollection, he need not put in a written appraisement on stamp in evidence. (1823) 171 ER 1087 (1087) = 1 Car and P 24.

(3) At the termination of a partnership. but before the accounts were finally balanced, the plaintiff and the defendant agreed to divide the utensils and materials each taking one half in value article by article, according to a valuation to be made by a third person. After the valuation it was agreed, that the defendant should have the whole at the value fixed. The valuation was not stamped. It was held that stamp was not necessary. (1834) 3 LJ Ex 95 (96) = 149 ER 800.

Article 9 — Note 1

(1) The relation of an apprentice to his employer carries with it certain special incidents and in particular that of being entitled to instruction. (1904) 1 KB 288 (291) = 73 LJKB 133.

(2) Whether a contract is a contract of apprenticeship or of service must depend upon the intention of the parties to be collected from the whole of the agreement. (1831) 109 ER 1226 (1227) = 2 B and Ad 493 ** (1811) 104 ER 709 (711, 712) = 14 East 541.

(3) A contract of apprenticeship may be formed without using the term "apprentice". (1799) 101 ER 1444 (1446) = 8 Term Rep 379.

10. ARTICLES OF ASSOCIATION OF A COMPANY.	Twenty-five rupees.
Exemption	
Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act,* 1882.	
See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).	
[1879—Art. 8; 1869—Sch. II, Art. 33.]	
[*] See now the Companies Act, 1956 (I of 1956), S. 25.	
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Two hundred and fifty rupees.
[1879—Art. 9; 1869—Sch. II, Art. 41.]	
ASSIGNMENT. See CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.	
ATTORNEY. See ENTRY AS AN ATTORNEY (No. 30) and POWER OF ATTORNEY (No. 48).	
AUTHORITY TO ADOPT. See ADOPTION-DEED (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case . . .	Five rupees.

Sch. I Article 9 — Note 1 (contd.)

(4) An indenture by which an apprentice was bound for seven years to serve A for the first four years and B for the remaining three years to learn two different trades, was held to require only one stamp. (1828) 108 ER 1036 (1037) = 6 LJ (OS) Mc 107.

Article 10 — Note 1

(1) Where a limited company possessing articles of association passed a special resolution in virtue of which an instrument was drawn up styled "articles of association" in supersession of the articles already possessed, it was held that the Companies Act did not contemplate any such thing as new articles of association and that the instrument in question did not require to be stamped under this Article. **(1900) 22 All 131 (135) (FB).**

Article 12 — Note 1

(1) A document which is not signed by the arbitrators is not an award. **AIR 1942 All 220 (221) (SB).**

(2) An award is none the less an award even if it is also signed by the parties. 1942 Oudh WN (BR) 758 (759).

(3) An account between partners in a business, made out by a person appointed for that purpose, by which the parties are guided in their settlement is not an award unless the account is binding upon them. (1845) 153 ER 742 (743) = 15 LJ Ex 191.

(4) The members of a joint Hindu family made a reference with regard to the division of their family properties and the arbitrators accordingly made a division. The members subsequently executed a document which was also signed by the arbitrators. The document purported to be a list of the properties allotted to one of the members and also recited that the parents were to enjoy certain lands during their lifetime. It was held that the document was neither an award nor a partition-deed but only a memorandum of the properties so allotted. **(1884) 7 Mad 385 (387) (SB).**

(5) Letters written by the parties authorising the arbitrators to decide a certain dispute do not require any stamp. (1895) 19 Bom 32 (33) (DB).

(6) When the value of the property is not stated in the award, it has been held that its value for purposes of stamp duty must be taken to be its market-value at the time of making the award. AIR 1935 Rang 204 (205) (DB).

Exemption	
Award under the *Bombay District Municipal Act, 1873, section 81 or the Bombay Hereditary Offices Act, 1874, section 18.	

[1879—Art. 10; 1869—Sch. I, Art. 22.]

[*] See now the Bombay District Municipal Act, 1901 (Bom. III of 1901).

13. BILL OF EXCHANGE [as defined by S. 2 (2) *[* *]] not being a BOND, bank note or currency note—	
†[(a) * * * *];	
‡[(b) where payable otherwise than on demand—	
(i) where payable not more than three months after date or sight—	
if the amount of the bill or note does not exceed Rs. 500;	One rupee §[twenty-five naye paise].
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	Two rupees §[fifty naye paise].
and for every additional Rupees 1,000 or part thereof in excess of Rs. 1,000;	Two rupees §[fifty naye paise].
(ii) where payable more than three months but not more than six months after date or sight—	
if the amount of the bill or note does not exceed Rs. 500;	Two rupees §[fifty naye paise].
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	Five rupees.

Sch. I Article 12 — Note 1 (contd.)

(7) Where the subject-matter of an award is property having no market-value. e. g. a Buddhist Monastery, the stamp duty payable is the minimum under this Article read with Article 15. AIR 1935 Rang 204 (205) (DB).

(8) In the case of an award securing an annuity the valuation for purpose of stamp duty has to be made in accordance with the provisions of Section 25. **1896 All WN 197 (197) (SB).**

(9) An award given by the Inspector of Co-operative Societies as arbitrator by the Registrar of Co-operative Societies under Rule 22 framed by the Bengal Government under Section 43, Co-operative Societies Act. II of 1912 has the force of a decree and is not required to be stamped. AIR 1933 Cal 695 (696) = 60 Cal 906.

(10-11) An unstamped award is not admissible in evidence and the Court has no power to act upon it. AIR 1928 Nag 166 (169).

(12) An award is complete as soon as it is pronounced and the absence of stamp does not make it incomplete. AIR 1924 Nag 204 (206, 207).

(13) An unstamped award may be admitted in evidence on payment of duty and penalty. AIR 1924 Nag 204 (206, 207) ** (1913) 20 Ind Cas 491 (492) = 1913 Pun Re No. 66 (DB).

(14) An arbitrator signing an award on plain paper would be rendering himself liable to prosecution. AIR 1924 Oudh 240 (240). (Award directing partition.) ** AIR 1928 Nag 166 (169). (Do.)

Article 13 — Note 1

(1) A demand draft drawn by a bank on its branch payable on demand is a bill of exchange and is exempt from stamp duty. **AIR 1928 Cal 566 (567, 569) = 56 Cal 233 (SB)** ** AIR 1951 Ajmer 72 (Pr 1). (Shahjog hundi.) ** (1933) Mad SM p. 81 ** (1965) 6 Guj LR 98 = ILR (1964) Guj 1199.

(2) A 'hundi' payable at sight is a bill of exchange as defined in Section 5 of the Negotiable Instruments Act. In any case, it is a bill of exchange within the definition of the term in Section 2 (2) of the Stamp Act and no stamp need be affixed thereon. AIR 1953 Ajmer 34 (2) (Pr 2).

(3) A hundi payable after a particular date specified therein is not one payable otherwise than on demand. It is payable on demand after the due date and is exempt from payment of stamp duty. AIR 1961 Raj 87 (88) ** 1965 Raj LW 33 = ILR (1965) 15 Raj 230.

(4) It has been held that a bill of exchange can, in view of Rule 7 (1) of the Stamp Rules, 1925, be written on more than one stamped paper, provided that a portion of it is written on each stamp paper used and the aggregate value of the papers is sufficient. AIR 1919 Cal 235 (238) (DB).

(5) A bill of exchange cannot be stamped with an adhesive stamp if the value of the bill exceeds Rs. 200. (1880) 2 Mad 173 (174) (DB) ** (1882) 8 Cal 721 (723) (DB).

(6) In the case of bills falling under clause (b) no mention is made of any stamps on a second or third of exchange in case they are drawn in sets which indicates that a stamp is required on only one part. **(1908) 4 Low Bur Rul 320 (323) (FB).**

and for every additional Rupees 1,000 or part thereof in excess of Rs. 1,000;	Five rupees.
(iii) where payable more than six months but not more than nine months after date or sight—	
if the amount of the bill or note does not exceed Rs. 500;	Three rupees §[seventy-five naye paise].
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	Seven rupees §[fifty naye paise].
and for every additional Rupees 1,000 or part thereof in excess of Rs. 1,000;	Seven rupees §[fifty naye paise].
(iv) where payable more than nine months but not more than one year after date or sight—	
if the amount of the bill or note does not exceed Rs. 500;	Five rupees.
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	Ten rupees.
and for every additional Rupees 1,000 or part thereof in excess of Rs. 1,000;	Ten rupees.
(c) where payable more than one year after date or sight—	
if the amount of the bill or note does not exceed Rs. 500;	Ten rupees.
if it exceeds Rs. 500 but does not exceed Rs. 1,000;	Twenty rupees.
and for every additional Rupees 1,000 or part thereof in excess of Rs. 1,000.	Twenty rupees.]

[1879—Art. 11; 1869—Sch. I, Art. 1 and Sch. II, Art. 1; 1862—Sch. A, Art. 10; 1866—Sch. A, Arts. 4, 5.]

[°] The word, figure and brackets "and (3)" were omitted by the Indian Finance Act, 1927 (V of 1927), S. 5.

[†] Item (a) was omitted, ibid.

[‡] Substituted for the former items (b) and (c) by the Finance (No. 2) Act, 1956 (LXXVI of 1956), S. 4 and Sch II (w. e. f. 1-2-1957).

[§] Substituted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Sec. 13 (1-10-1958).

14. **BILL OF LADING** (including a through bill of lading).*	†[Twenty-five naye paise].
	N.B.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
Exemptions	
(a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the ‡Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.	
(b) Bill of lading when executed out of §[India] and relating to property to be delivered in §[India].	

[1879—Art. 12; 1869—Sch. II, Art. 9; 1862—Sch. A, Art. 11; 1860—Sch. A, Art. 6.]

[*] See cl. (4) of section 2.

Article 14 — Note 1

(1) Parcel receipts granted by the British India Steam Navigation Company are in the nature of bills of lading and should bear a stamp accordingly. (1933) Mad SM, p. 82 (Citing BP 425. Land Revenue, 25th June 1889.)

(2) The duty on bills of lading issued by Inland Steamer Companies has been remitted. (1933) Mad SM p. 82. (Citing BP 15/149R, Mis. 22nd January 1904.)

[See however **(1903) 30 Cal 565 (574) (SB).** (Case prior to remission.)]

[†] Substituted for "Four annas" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), S. 13 (1-10-1958).

[‡] Now see the Indian Ports Act, 1908 (XV of 1908).

[§] Substituted for "the States" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), S. 2 (w. e. f. 1-4-1956).

15. BOND [as defined by section 2 (5)] not being a DEBENTURE (No. 27), and not being otherwise provided for by this Act, or by the Court-fees Act, 1870,—				
where the amount or value secured does not exceed Rs. 10;				Two annas.
where it exceeds Rs. 10 and does not exceed Rs. 50				Four annas.
Ditto	50	ditto	100	Eight annas.
Ditto	100	ditto	200	One rupee.
Ditto	200	ditto	300	One rupee eight annas.
Ditto	300	ditto	400	Two rupees.
Ditto	400	ditto	500	Two rupees eight annas.
Ditto	500	ditto	600	Three rupees.
Ditto	600	ditto	700	Three rupees eight annas.
Ditto	700	ditto	800	Four rupees.
Ditto	800	ditto	900	Four rupees eight annas.
Ditto	900	ditto	1,000	Five rupees.

Article 15 — Note 1

(1) The words "Not being otherwise provided for by this Act" mean "not being provided for by any other provision of this Act dealing with bonds." **AIR 1941 All 243 (258, 266) (FB).** (Per Verma and Mulla JJ.— Contrary view was expressed by Bajpai and Dar JJ. that the words mean not provided for elsewhere in the Act.)

[See also **AIR 1936 All 481 (485) = 58 All 1083 (SB).**]

(2) Where an instrument constitutes a bond as defined by Section 2 (5) and also a security bond chargeable under Article 57, this Article will not apply. **AIR 1936 Lah 45 (46) (SB).**

(3) A security bond given under the Civil Procedure Code, Section 55 (4) or under Order 32, Rule 6 (2) or under Order 41, R. 5 or 6 or for stay of execution in a Small Cause Court pending a decision by the High Court or for production of attached live-stock when called for or given by a receiver appointed by the Court for the performance of his duties or given by a respondent in respect of the release of property is a bond given in pursuance of an order made by a Court under a section of the Code of Civil Procedure, 1908, within the meaning of Article 6. Sch. 2, Court-fees Act. **AIR 1933 Lah 89 (90) (SB).** (Section 55 (4), Civil P. C. — See however AIR 1930 Lah 854 (854).) ** **AIR 1925 Cal 906 (907) (SB).** (Reference under Section 113 read with Order 46, Rule 1, Civil P. C. AIR 1918 Cal 125, **Overruled** — Order 32, Rule 6 (2).) ** ILR (1954) Mad 325 (328) (DB). (In respect of release of property — AIR 1935 Mad 380 (FB), Foll. — Judgment of Krishnaswami Nayudu J., in Application No. 4190 of 1949 in C. S. No. 576 of 1949 held not correct.) ** AIR 1929 Lah 205 (205). (In a case under Order 32, R. 6, C. P. C., Art. 57, Stamp Act, would also apply.) ** AIR 1936 Sind 41 (42) (DB). (Order 41.) ** AIR 1934 Lah 228 (229) (DB). (Do.) ** AIR 1947 Nag 26 (31) (DB) ** AIR **1914 Mad 652 (654) (SB).** (Security bond executed for production of attached live-stock.) ** AIR 1923 Cal 269 (270) (DB). (Do.) ** **AIR 1920 Mad 939 (940) (FB).** (By receiver.)

(4) An order in original side appeal directing the respondent in the appeal to furnish security for the payment of a sum of money has been held to be an order made under the Code of Civil Procedure and therefore governed by Article 6, Sch. II of the Court-fees Act. ILR (1954) Mad 325 (327) (DB).

(5) A security bond given under the proviso to Section 17 (1), Provincial Small Cause Courts Act, 1887, falls within Article 6. Sch. II, Court-fees Act. **AIR 1935 Mad 380 (381) (FB).**

[But see **1897 Bom PJ 167 (SB).** (Article 13 of Stamp Act 1 of 1879, applies.)]

(6) A security bond given under Section 21 of the Provincial Insolvency Act is not governed by Article 6, Sch. II of the Court-fees Act. Article 57, Sch. I of the Stamp Act and not Article 15, Sch. I applies to such a bond. **AIR 1936 Lah 45 (46) (SB).**

(7) A security bond which falls within the scope of Article 6. Sch. II, Court-fees Act, is exempt from duty under the Stamp Act if it comes under this Article (i. e. Article 15). **AIR 1925 Cal 906 (907) (SB) ** AIR 1933 Lah 89 (90) (SB) ** AIR 1935 Mad 380 (381) (FB) ** AIR 1914 Mad 652 (654) (SB).**

(8) A security bond falling under Art. 6, Sch. II, Court-fees Act, and also under provisions other than Article 15, Stamp Act, will be chargeable also with stamp duty. **AIR 1925 Cal 906 (907) (SB)** ** AIR 1936 Sind 41 (42) (DB). (Security bond given under O. 41, Rule 5 or 6, Civil P. C. — Article 57, Stamp Act, applies.) ** AIR 1929 Lah 205 (205) ** **AIR 1920 Mad 939 (940) (FB).** (Security bond given by receiver — Immovable property also mortgaged — **Held**, Article 40, Stamp Act, applies.)

(9) Where an instrument falls within Clause (c) of Section 2 (5) "the amount or value secured" by the instrument is the value of the grain, or other agricultural produce,

and for every Rs. 500 or part thereof in excess of Rs. 1,000	Two rupees eight annas.
See ADMINISTRATION-BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS-BOND (No. 26), INDEMNITY-BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).	
Exemptions	
Bond, when executed by—	
(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	
(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	

[1879—Art. 13; 1869—Sch. I, Art. 5; 1862—Sch. A, Arts. 12, 15 to 19; 1860—Sch. A, Arts. 8, 10 to 12, 14.]

Sch. I Article 15 — Note 1 (contd.)

agreed to be made over to the creditor, as fixed by the instrument itself. (1886) 13 Cal 268 (269) (DB).

(10) Where the instrument is silent as to the money value of the grain the market-value of the grain at the time of execution of the bond will be the amount on which stamp duty would be chargeable. **(1883) 7 Bom 137 (139) (FB).**

(11) Where A agreed to pay £ 2,20,000 to B but was entitled under the agreement to deduct £ 40,000 by way of certain compensation and other expenses, it was held that the instrument must be stamped as a bond for the payment of £ 2,20,000. **(1882) 15 Mad 193 (198) (SB).**

(12) Where interest accrues under the bond itself, stamp duty is chargeable only on the principal, and not on the amount of the interest. **(1887) Bom PJ 35 (FB) ** (1901) 3 Bom LR 133 (135) (FB).**

(13) Where interest according to savai system is added to an old debt and the whole converted into principal stamp duty is payable on the total amount. **1882 Bom PJ 352 (FB).**

(14) A bond for a loan of Rs. 100 stipulated that the obligor would pay twice this amount including Rs. 100 for interest. total Rs. 200 in eight yearly instalments. It was held that the amount secured by the bond was Rs. 200. **(1899) 26 Cal 179 (181) (FB).**

(15) A document stipulated as follows: "I, M, have taken.....a sum of Rs. 35 in cash as a peshgi (advance money) on an interest payable at the rate of 2 pies per mensem from L ..... Whenever a necessity will dictate. I shall in addition to the zar-i-peshgi aforesaid, continue to take under receipts further sums from the said creditor, the aggregate amount whereof will come to Rs. 100 — **Held** that the amount secured was not Rs. 35 or Rs. 135 but Rs. 100. **AIR 1941 All 243 (252, 268) (FB).**

(16) Where an instrument which constitutes both a bond and some other matter and comprises distinct matters, Sec. 5 will apply and the aggregate of the duties that would have been payable had separate instruments been executed would be chargeable. (1933) Mad SM p. 86 ** **AIR 1957 All 391 (394) (SB).** (Document held to be bond also creating charge — Proper duty payable on document held was duty on bond under Article 15 read with Article 40.)

[See also **(1905) 7 Bom LR 929 (931) (FB).**]

(17) Where an instrument amounts to a "bond" as defined in Section 2 (5) and also some instrument other than a bond and the instrument does not comprise distinct matters, Section 6 will apply and the instrument will be chargeable with the higher of the duties calculated under the Articles applicable. **AIR 1936 All 481 (482) (SB).** (Bond and mortgage.) ** **AIR 1941 All 243 (260, 267) (FB).** (Per Verma and Mulla JJ.. Dar and Bajpai JJ. contra — Article 15 will apply only if no other Article is applicable.) ** (1933) Mad SM p. 84.

[See also **(1880) 4 Bom 19 (20) (FB).**]

(18) Section 40. U. P. Agriculturists' Relief Act applies only to bonds executed by agriculturists and registered and cannot be availed of where the document is not registered. **AIR 1941 All 243 (255) (FB).** (Iqbal Ahmad, Ag. C. J. dissenting.)

(19) Document containing words "Rupaya dena manzoor" — Document held not to be an acknowledgment within Schedule 1, Article 1 but a bond as defined in Section 2 (5) and as such liable to duty under Schedule 1, Article 15. AIR 1959 Madh Pra 327.

(20) Letter containing a promise to repay the loan on a future date not attested by a witness, though reciting that what is being executed is a note on demand is a bond chargeable under article 15. AIR 1971 Pat 378 (380) = 1970 BLJR 1243.

(21) The document containing an undertaking to pay money not to order or bearer and attested by witnesses is not mere agreement relating to sale of goods, but a bond liable to stamp duty under Article 15. **AIR 1971 All 430 (432) = 1971 All LJ 640 (FB).**

16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage. [1879—Art. 15; 1869—Sch. I, Art. 6; 1862—Sch. A, Art. 14; 1860—Sch. A, Art. 9.]	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for. See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).	Five Rupees.
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—	
(a) where the purchase-money does not exceed Rs. 10	Two annas.
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25	Four annas.

Sch. I Article 15 — Note 1 (contd.)

(22) Obligation to pay money as penalty for breach of a covenant is not within the purview of the definition of 'bond' in Cl. (a) of Section 2 (5) of the Act. AIR 1972 All 466 (469) = 1972 All LJ 618.

(23) Agreement in respect of film under production — Party obliging himself to pay amounts in a particular manner and in addition giving camera as security — Instrument held not a mortgage but a bond. AIR 1970 Mad 10 = (1969) 2 Mad LJ 191.

(24) Where no value is fixed or mentioned in the partition deed, it cannot be argued that the instrument is not chargeable with any duty whatsoever. Chargeability to duty will be decided by the proper authority under the Act. 1966 Raj LW 419.

(25) Where a deed mentions a previous partition as an incident of some other object it has in view or some other effect it brings about, it is not to be treated as a deed of partition. It is a "composite document", consisting of a memorandum of "dissolution of partnership-cum-partition", "six bonds" and "one power of attorney" chargeable under Section 5 read with Articles 15 and 48 (a) of the Stamp Act. as in force in U. P. 1971 All WR (HC) 140 (142-143).

be worded or described by the parties. (1910) 32 All 171 (175) (DB).

(2) A who owes to B Rs. 2,000 sells to B his immovable property for Rs. 3,000. This sum is made up by the payment of Rs. 1,000 in cash and the cancellation of A's liability for Rs. 2,000. Such cancellation is expressed in the sale-deed. Duty must be paid on the sale-deed in respect of the whole amount of Rs. 3,000. (1910) 32 All 171 (175) (DB).

(3) An instrument cancelling a will would be chargeable under this Article if such instrument is attested. The duty chargeable has, however. been remitted. (See Reductions and Remissions, Central Government Notifn. No. 6, dated 12-9-1931.)

(4) Document merely declaring existence of trust coupled with transfer of its management — Does not fall within definition of term conveyance — Stamp duty leviable thereon will be governed by Article 47-A and not under Article 17. **AIR 1970 Madh Pra 23 = 1969 MPLJ 747 (FB).**

(5) Instrument by which vendor of immovable property gives up his right of reconveyance — It is not a deed of cancellation. **AIR 1970 Mad 1 = (1969) 2 Mad LJ 93 (FB).**

Article 16 — Note 1

(1) Where money was advanced on the personal security of the owner who also executed a hypothecation bond in respect of the ship, it was held that the transaction cannot be regarded as a bottomry bond. (1899) 22 Mad 26 (29) (DB).

Article 17 — Note 1

(1) Where immovable property is sold to another by a registered deed, the title cannot be re-transferred to the original vendor except by a registered instrument and this instrument would be a "conveyance" and not a mere "cancellation" however it may

Article 18 — Note 1

(1) The purchaser at a Court sale presented a stamped paper for the engrossment of the sale certificate. The stamp was inadvertently punched by some officer of the Court but the paper was used as intended, and delivered to the purchaser. Subsequently a Deputy Collector. treating the certificate as unstamped levied the stamp duty together with a penalty. It was held that the document was duly stamped and that the amount levied should be refunded. **(1895) 18 Mad 235 (236) (FB).**

(2) See also Section 24 (proviso) and Section 35 Note "Proviso (a) — General."

(c) in any other case	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.

[1879—Art. 16.]

19. **CERTIFICATE OR OTHER DOCUMENT** evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. See also LETTER OF ALLOTMENT OF SHARES (No. 36).	°[Two annas].

[1879—Art. 17; 1869—Sch. II, Art. 4; 1862—Sch. A, Art. 20.]

[°] Substituted for "One anna" by the Indian Stamp (Amendment) Act, 1923 (XLIII of 1923), Section 2.

20. **CHARTER-PARTY**, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	One rupee.

[1879—Art. 18; 1869—Sch. II, Art. 22; 1862—Sch. A, Arts. 21, 6; 1860—Sch. A, Art. 16.]

21. [Omitted by section 5 of the Indian Finance Act, 1927 (V of 1927).] (Article related to cheques.)	

[1879—Art. 19; 1869—Sch. II, Art. I; 1862—Sch. A, Art. 10.]

22. **COMPOSITION-DEED**, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	Ten rupees.

[1879—Art. 20; 1869—Sch. II, Art. 28; 1862—Sch. A, Art. 22; 1860—Sch. A, Art. 17.]

Article 20 — Note 1

(1) A guarantee for the due performance of a charter-party does not require to be stamped as charter-party. An agreement stamp suffices. (1867) 2 QB 144 (149) = 36 LJQB 81.

Article 22 — Note 1

(1) The Stamp Act may not be strictly speaking in pari materia with the Registration Act but the term "composition deed" should be taken as having the same meaning as that given in the Stamp Act. AIR 1914 Bom 55 (57) (DB).

(2) It has been held that the essential test of a composition-deed is that there ought to be a compounding of debts due and that in the absence of such compounding a deed merely transferring property to trustees for paying off creditors is not a composition deed. (1912) 14 Bom LR 506 (507) (DB). (The deed in this case was the same as in AIR 1914 Bom 55 which does not support this view.)

(3) A debtor and the firm of which he was a member were adjudicated insolvents. Subsequently the creditors met and passed resolutions that a composition of 50 per cent, in the rupee be accepted in full satisfaction of the debts, that security of plaintiff's firm be accepted for payment of the composition money and for that the property of the insolvents be transferred to the plaintiff. A deed was executed giving effect to these resolutions — **Held**, that the deed was a composition deed and not a deed of conveyance. (1893) 16 Mad 85 (89) (DB).

(4) Order under Section 153-A. Companies Act, transferring assets of company in liquidation to another company — Transfer by deeds in pursuance of such order — Documents in question held fell under Article 23 and not under Article 22. **AIR 1951 Mad 209 (FB).**

23. CONVEYANCE [as defined by section 2 (10)] not being a TRANSFER charged or exempted under No. 62,—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50.	**Eight annas.**

ARTICLE 23 — SYNOPSIS

1. Scope.
2. Consideration.
3. Stamp duty how calculated.
4. Consideration not set forth in deed — Duty whether payable.
5. Surcharge.
6. Exemption and remission.

1. Scope.— (1) The Article will not apply to transfers which are otherwise specifically provided for by Sch. I, as such transfers are excluded from the definition of "conveyance" in Section 2 (10). **AIR 1945 Lah 69 (72) (SB) ** AIR 1958 Mad 254 (255) (FB).** (A and B carrying on business in partnership — Rs. 44,000 contributed by A and Rs. 32.000 by B — Long before dissolution B receiving back Rs. 32,000 — B entering into deed of dissolution — Deed held was not conveyance but deed of dissolution.) **** AIR 1957 All 391 (393) (SB)** ** AIR 1947 All 104 (105).

(2) Where the liquidator of a company transferred the assets of the company to another company which had paid off the debts of the former, and it was sought to apply Article 62 (e) to the document as being a transfer of trust property without consideration from a trustee to a beneficiary, it was held that the document was not of such a description and that Article 23 applied. (1940) Bihar SM p. 155 ** (1931) Beng SM Vol. I, p. 69.

(3) A schedule appended to a deed of sale does not require to be stamped under this Article or under any other Article. (1871) 6 Mad HCR (App) 36 (36).

(4) The document proceeded on the footing that the five persons, namely, the three executants and the two persons in whose favour the instrument was executed, who were carrying on business of a firm owned the property as co-owners, the executants being entitled to a three-fifths share and the other two being entitled to the remaining two-fifths share. The document recited that in consideration of certain amount the executants released, extinguished, abandoned, cancelled. and relinquished their rights, claims, etc. in respect of the property interest, etc. There was no division of the property by metes and bounds and in accordance with the said shares. It was held that the document was a release deed. Therefore, the document did not fall under this Article. **AIR 1955 Mad 641 (642) (FB).**

(5) In construing an instrument in order to decide whether it is an agreement to sell or a contract of sale, the cumulative effect of all the recitals contained therein and the relevant facts have to be taken into account. The mere use of the word "agreement" is not conclusive. AIR 1961 Andh Pra 424 (426).

(6) A document has to be considered as chargeable to stamp duty when it is executed, which term "executed" itself has to be interpreted in the light of the definition embodied in Section 2 (12). **AIR 1969 Mad 1 (3) = (1969) 1 Mad LJ 1 (FB).**

(7) Article relates to conveyance which under Section 2 (10) relates to transfer inter vivos and therefore not to sale in execution of decree. AIR 1953 Him Pra 11(13).

(8) Document referring to sale of certain property and acknowledging receipt of part of consideration — Document is receipt and not conveyance. AIR 1952 Ajmer 46 (2) (46, 47) = 1952 AMLJ 7.

(9) The use of words in the affidavit "I hereby declare that the property constitutes now the property of the Company" shows that the intention was to vest title by those words in the company and that means a transfer was intended — Transfer of property in effect — The two affidavits constitute a transfer and a conveyance chargeable to duty under Article 23. AIR 1973 Mad 1 (2) = (1972) 85 Mad LW 663.

(10) Mother by deed giving up her life interest in property in favour of her son and grandson — Mother to be paid monthly amount to be charged on some other property — **Held,** deed did not operate as conveyance and hence not chargeable under Article. AIR 1970 Mad 348 (349) = (1970) 2 Mad LJ 326.

(11) A agreed to sale Ice Factory to P for Rs. 80,000/- and the Vendee paid Rs. 25,000/- as earnest money agreeing to pay the balance at the time of the execution of the sale deed when the possession would be given to the Vendee on 13-12-1948 as per agreement, the Vendee paid the balance and got a letter written by the Vendor stating that be sold to him the ice factory — **Held** that the document transferred ownership and was liable to be stamped as conveyance. AIR 1953 Hyd 14 (17. 18) (DB).

(12) Parties to suit for partition entering into partnership by executing document — One of parties throwing family property in partnership after releasing it from Court on payment — Document is deed of partnership simpliciter — Not dutiable under Article 23. AIR 1970 Mad 5 (7) = (1969) 2 Mad LJ 91.

(13) Order under Sec. 153-A, Companies Act, transferring assets of company in liquidation to another company — Transfer by deeds in pursuance of such order — Documents in question held fell under Article 23 and not under Article 22. **AIR 1951 Mad 209 (211) (FB).**

(14) A person sold properties, namely, Rice, Flour etc., Mill together with their accessories for Rs. 17,000 to another. The instrument is styled as receipt and is written on plain paper, bearing revenue stamp of the value of ten naye paise. It is admitted that the land and the buildings in which the Rice and Flour Mills and the appurtenant machinery were installed were separately sold between the same persons by a registered sale deed of the same date as the receipt. The properties sold for Rs. 17,000 were embedded and attached to the earth and it is not in

where it exceeds Rs. 50 but does not exceed Rs. 100	One rupee.
Ditto 100 ditto 200	Two rupees.
Ditto 200 ditto 300	Three rupees.
Ditto 300 ditto 400	Four rupees.
Ditto 400 ditto 500	Five rupees.
Ditto 500 ditto 600	Six rupees.
Ditto 600 ditto 700	Seven rupees.
Ditto 700 ditto 800	Eight rupees.
Ditto 800 ditto 900	Nine rupees.
Ditto 900 ditto 1,000	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
Exemption	
Assignment of copyright by entry made under the Copyright Act,* 1847, section 5.	

[1879—Art. 21; 1869—Sch. I, Art. 15; 1862—Sch. A, Arts. 23, 24, 25; 1860—Sch. A, Arts. 7, 19.]

[*] Now see the Copyright Act, 1957 (XIV of 1957), Sections 18 and 19.

Sch. I Article 23 — Note 1 (contd.)

dispute that the instrument "receipt" really relates to the sale of immovable properties.

Held: The document is liable for Stamp Duty under Article 23 of Sch. I to the Act as a conveyance. **AIR 1969 Mad 1 (5) = (1969) 1 MLJ 1 (FB).**

(15) A release can be usefully employed as a form of conveyance by a person having some right or interest to another having a limited estate and the release then operates as an enlargement of the limited right. A release can only feed title and cannot transfer title and as such, a release should necessarily be in favour of some one who had already some title to the estate and the effect of the release is only to enlarge that right. There can be no release by one person in favour of another who is not already entitled to the property as co-owner. **(1968) 1 MLJ 165 (167) (FB).**

(16) Property owned by two co-owners — One of them effacing himself in respect of his title and right to possession in favour of other — Document is release and not conveyance. AIR 1968 Mad 159 (160) = (1968) 1 Mad LJ 165.

(17) Instrument by which vendor of immovable property gives up his right of reconveyance — It is not conveyance. but release. AIR 1970 Mad 1 (2) = (1969) 2 Mad LJ 93.

(18) Document relating to sale of truck providing for payment of price in instalments and also for interest on unpaid price — Seller entitled to seize and keep truck if instalments are not paid and sell it thereafter — Document held was chargeable with duty as agreement and not as conveyance. AIR 1969 Raj 313 (315) = 1969 Raj LW 248.

2. Consideration.— (1) A company conveyed its business premises to a railway company under statutory compulsion. The jury in a compensation trial awarded to the transferor company certain amount as the value of the premises and the buildings thereon and also allowed an amount as compensation for loss of business. It was held that the amount allowed as compensation for loss of business was a part of the consideration. (1887) 12 App Cas 315 (322).

(2) Assignment deed was governed by Article 23 and its consideration was "no consideration" as mentioned in the document itself. Merely because the document referred to the earlier agreements between the lessee and the occupants the consideration of the assignment deed could not be deemed to be the total amount received by the lessee earlier. **AIR 1972 SC 899 (905).**

3. Stamp duty how calculated.— (1) The stamp duty is to be calculated on the consideration as set forth in the conveyance whatever may be the intrinsic value of the property conveyed. **(1897) 20 Mad 27 (29) (SB).**

(2) In determining what is the consideration as "set forth in the deed", it is only the terms of the document that can be considered and not extraneous circumstances. AIR **1935 Rang 243 (244) (SB)** ** (1889) 16 Cal 432 (435) (DB) ** AIR 1925 Bom 527 (528) (DB) ** **(1903) 27 Bom 279 (280) (FB).**

[See however **(1903) 27 Bom 150 (153) (FB).**]

(3) Where a transferor is indebted to the transferee and the consideration in the conveyance is stated to be that debt less the amount waived by the transferee, the stamp duty is to be paid not on the consideration stated in the conveyance but on the whole debt. **AIR 1935 Rang 243 (244) (SB).**

(4) Where two or more properties are sold for a single consideration. the duty is chargeable on the consideration as a whole. 1931 Beng SM Vol. I, p. 18 ** **AIR 1933 All 321 (323) (FB).** (This is so even where the details of the consideration are given by specifying the price of each item.) ** (1873) **10 Bom HCR 354 (355) (FB).** (Do.)

4. Consideration not set forth in deed — Duty whether payable.— (1) Where the amount or value of the consideration is not set forth in the instrument, this article will not apply. **(1903) 27 Bom 150 (153) (FB).**

(2) As to the duty to set forth fully and truly the consideration and the effect of contravention thereof, see Sections 27 and 64.

(3) Expression 'as set forth in such instrument' in Schedule I, Article 33 relates to 'the value' and if no value of property is

CO-PARTNERSHIP DEED. See PARTNERSHIP (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee;	Eight annas.
(ii) in any other case.	One rupee.
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
*[(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, †[divorces], deaths or burials.]	

[1879—Art. 22; 1869—Sch. I, Art. 23; 1862—Sch. A, Arts. 28 to 32; 1860—Sch. A, Arts. 21 to 24.]

Sch. 1 Art. 23 — Note 4 (contd.)

put in document of gift no amount of duty becomes payable according to Schedule and hence such document is not liable to be impounded under Section 33 nor is there question of calling upon defendant to pay duty and penalty under Section 35 for admitting it into evidence. AIR 1967 Pat 233 (234) = 1967 BLJR 169.

5. Surcharge.— (1) See Section 82 of the Calcutta Improvement Act of 1911, Sec. 135 of the Madras City Municipal Act, 1919 and Section. 77 of the Nagpur Improvement Trusts Act of 1936.

6. Exemption and remission.— (1) A company wishing to claim relief from stamp duty under the provisions of the Finance Department, Central Board of Revenue, Notification No. 1-D, 16-1-1937, must satisfy the officers concerned (1) that the document evidences transfer of properties between companies limited by shares, and (2) that shares of the transferee company are in the beneficial ownership of the transferor company. but legal ownership is not necessary. AIR 1957 Punj 261 (264) (DB).

ARTICLE 24 — SYNOPSIS

1. Scope.
2. Public officer.
3. Uncertified copies for private use.
4. Exemption (a).
5. Exemption (b).
6. Exemption under Land Acquisition Act.

1. Scope.— (1) The article contemplates documents which are certified copies at the time of their production in Court and not copies which are certified afterwards. **(1902) 26 Bom 522 (525, 526) (FB).** (Copies of entries in account books.) ** **(1903) 27 Bom 150 (154) (FB).** (Do.) ** **(1891) 15 Bom 687 (690) (FB).** (Copies or extracts.)

(2) A copy of an application to the Municipal Board and of the order of the Board passed thereon, certified by the Secretary of the Board is governed by this article. **(1897) 19 All 293 (295) (SB).**

(3) The copies of judgments given under the Madras Estates Land Act. (1908) are liable to stamp duty under this article. (1933) Mad S M p. 96 (96). (Citing B P 2850, 21st November 1882.)

(4) The copies granted under Section 57 of the Indian Registration Act, 1908, are covered by this article. (1941) C. P. Registration Manual, para. 436 p. 329.

(5) The copies of reasons for refusal to register a document under Sections 71 and 76 of the Registration Act are also liable to duty under this article. (1941) C. P. Registration Manual para 437 p. 329.

(6) A certified copy to be substituted in place of the original document in Court under Order 13, Rule 9 of the Civil P. C.. 1908 will not be governed by this article. **(1887) 11 Bom 526 (528) (FB).**

(7) Where a certified copy is produced to prove the original which has been destroyed, the stamp on the copy does not indicate the stamp on the original. The original document in such a case must be presumed to have been properly stamped. **AIR 1916 PC 41 (43).** (**Affirming** 37 Bom 575.)

(8) This Article contemplates cases, as is clear from clause (i) of copies of which the originals are not chargeable with any duty. Hence where the original document executed out of State does not require stamp the certified copy brought in the State need only to be stamped under Article 24. AIR 1951 Pepsu 24 (Pr 2).

(9) A dealer is entitled as a matter of right to get the certified copies of his application under Assam Sales Tax Act (17 of 1947) and order passed thereon when he had in other respects satisfied the requirements of the Court-fees Act and the Stamp Act. AIR 1956 Assam 110 (110) (DB).

(10) Account books filed under Order 7. Rule 17 and Order 13, Rule 5, Civil P. C. — They cannot be deemed to be certified within Article 24 — No Court fees are chargeable on copies of such account books. AIR 1952 Hyd 151 (152) (DB).

2. Public officer.— (1) The Secretary of Municipal Board acts as a "public officer" when he certifies as true a copy of an application to the Board and of the order passed

[*] Substituted for clauses (b) and (c) by the Indian Stamp (Amendment) Act, 1906 (V of 1906), Section 7.

[†] Inserted by the Repealing and Amending Act, 1914 (X of 1914), Section 2 and Schedule I.

25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid,—	
(a) if the duty with which the original instrument is chargeable does not exceed one rupee;	The same duty as is payable on the original.
(b) in any other case.	One rupee.
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	

[1879—Art. 23; 1869—Sch. II, Art. 16; 1862—Sch. A, Arts. 33, 37; 1860—Sch. A, Art. 33.]

26. CUSTOMS-BOND—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a Bond (No. 15) for such amount.
(b) in any other case.	Five rupees.

[1879—Art. 24; 1869—Sch. I, Art. 8]

Sch. I Article 24 — Note 2 (contd.)

by the Board thereon. **(1897) 19 All 293 (295) (SB).**

(2) All the officers of the Local Fund Board and those in the Customs, Income-tax and Salt Department are public officers. 1933 Mad SM p. 97 (97). (Citing B P 383, 4th June 1889.) ** 1940 Bihar S M p. 156 (156) ** 1934 Punjab S M Part I-B, Chap 3, para 71, p 26.

(3) See also the definitions in Section 2 (17) of the Code of Civil Procedure and Section 21 of the Penal Code.

3. Uncertified copies for private use. — (1) The Secretary of a Municipality may issue uncertified and unstamped copies of the record when required for private use. 1933 Mad S M p. 97 (97). (Citing B P 111 5th April 1898) ** (1842) 152 ER 565 (567) = 12 LJ Ex 38.

[See however (1869) 4 Mad HCR (App) 57 (59).]

4. Exemption (a).— (1) The copies required to be sent under Sections 65, 66 and 89 of the Indian Registration Act. 1908, are exempt from stamp duty. (1941) C. P. Registration Manual para 438. p. 329. (Copies sent under Sections 65 and 66, Indian Registration Act, 1908.)

5. Exemption (b). — (1) The expression "any register relating ..... marriage" in this clause includes registers relating to the dissolution of marriages. (1933) Mad SM p. 96 (96). (Citing BP 96/1046 R, Mis. 23rd May 1907.)

6. Exemption under Land Acquisition Act. — (1) Copies of the awards or agreements under the Land Acquisition Act, 1894, are exempted from duty under Section 51 of that Act.

Article 25 — Note 1

(1) A marupattam is a counterpart of a lease executed by a tenant promising certain rent. **AIR 1918 Mad 504 (505) = 41 Mad 469 (FB).** (It was held that the instrument must be stamped both as a counterpart and a mortgage. This view was not followed in **AIR 1920 Mad 225 (FB).**)

(2) Duplicates of engagements executed by abkari sub-renters and duplicates of shopkeepers' engagements are liable to stamp duty under this article. (1933) Mad SM p. 98. (Citing B P 309, 10th May 1891.)

(3) A duplicate of a receipt must bear one anna stamp under Clause (a) of this article. (1933) Mad S M p. 35. (Citing B P 2504, 24th August 1883.)

See Government of India Notification No. 2153. Finance and Commmerce (SR) dated 20th July 1883.

(4) Counter deeds relating to inam lands, sometimes executed by the purchaser in favour of the seller, the former agreeing to pay the assessment to the latter, should be stamped under this article. (1933) Mad SM p. 106. (Citing B P 534, December 1897.)

(5) A counterpart of a lease for salt pans is not a lease granted to a "cultivator." **(1894) 18 Bom 546 (547) (FB).**

(6) A lease to a person whose occupation is that of a cultivator, for planting cocoanut trees, has been held to be a lease to a "cultivator" (1933) Mad S M p. 98 ** **(1891) 15 Bom 73 (76) (FB).**

Article 26 — Note 1

(1) The duty payable on a customs bond executed under Section 92 of the Sea Customs Act is to be calculated on the amount mentioned in the bond and not on the customs duty chargeable on the goods concerned. (1933) Mad SM p. 98. (Citing BP 852-R Mis 12th July 1913.)

(2) Bonds executed by distillers in the Madras Presidency on the removal of spirits from distilleries without payment of duty should be treated (a) for export by sea as customs bonds and (b) for transport as security bonds. (1933) Mad S M p. 98. (Citing B P 1114-R Mis. 1st August 1907; 193-R; Mis 14th August 1933.)

*[27. **DEBENTURE** (whether a mortgage debenture or not), being a marketable security transferable—	
(a) by endorsement or by a separate instrument of transfer—	
where the amount or value does not exceed Rs. 10.	†[Twenty naye paise].
where it exceeds Rs. 10 and does not exceed Rs. 50.	†[Forty naye paise].
Ditto 50 ditto 100	†[Seventy-five naye paise].
Ditto 100 ditto 200	One rupee †[Fifty naye paise].
Ditto 200 ditto 300	Two rupees †[Twenty-five naye paise].
Ditto 300 ditto 400	Three rupees.
Ditto 400 ditto 500	Three rupees †[Seventy-five naye paise].
Ditto 500 ditto 600	Four rupees †[Fifty naye paise].
Ditto 600 ditto 700	Five rupees †[Twenty-five naye paise].
Ditto 700 ditto 800	Six rupees.
Ditto 800 ditto 900	Six rupees †[Seventy-five naye paise].
Ditto 900 ditto 1,000	Seven rupees †[Fifty naye paise].
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Three rupees †[Seventy-five naye paise].
(b) by delivery—	
where the amount or value of the consideration for such debenture as set forth therein does not exceed Rs. 50	†[Seventy-five naye paise].
where it exceeds Rs. 50 but does not exceed Rs. 100	One rupee †[Fifty naye paise].
Ditto 100 ditto 200	Three rupees.
Ditto 200 ditto 300	Four rupees †[Fifty naye paise].
Ditto 300 ditto 400	Six rupees.
Ditto 400 ditto 500	Seven rupees †[Fifty naye paise].
Ditto 500 ditto 600	Nine rupees.
Ditto 600 ditto 700	Ten rupees †[Fifty naye paise].
Ditto 700 ditto 800	Twelve rupees.
Ditto 800 ditto 900	Thirteen rupees †[Fifty naye paise].
Ditto 900 ditto 1,000	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees †[Fifty naye paise].
Explanation.—The term "Debenture" includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.	
Exemption	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part,	

Article 27 — Note 1

(1) The debenture means a document which either creates a debt or acknowledges it and a document which fulfils either of these conditions is a 'debenture'. An instrument which neither creates nor acknowledges a debt is not a debenture. **AIR 1927 Rang 37 (39) (FB)** ** (1887) 37 Ch D 260 (264) = 57 LJ Ch 202 ** **(1900) 23 Mad 207 (208) (SB).**

(2) As to the salient characteristics which are to be found in the various kinds of debentures, see 1926-1 Ch 1 (15) = 95 LJ Ch 97.

(3) The Court is not bound to hold that an instrument is a debenture because it is called a debenture, nor to hold that it is not a debenture because it is not so called. (1887) 36 Ch D 215 (221) = 56 LJ Ch 815.

(4) It is not necessary that a debenture must be one of a series of instruments or issued pari passu with others. (1887) 37 Ch D 260 (264) = 57 LJ Ch 202.

(5) A mortgage deed recited that it was intended to issue mortgage debentures to a total value not exceeding five lakhs and that a first set of debentures to the extent of two lakhs were to be immediately secured. It was held that a duty on two lakhs was sufficient for the document and that the duty need not be for five lakhs. (1933) Mad SM p. 117. (Citing B P 251-R; Mis 20th October 1931.)

(6) "Marketable security — See definition in Section 2 (16A).

their property to trustees for the benefit of the debenture-holders: Provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.]	

[*] Substituted for the former article by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 7 (ii) (with effect from 1-4-1956).

[†] Substituted, ibid, 1958 (XIX of 1958), Section 13 (1-10-1958).

DECLARATION OF ANY TRUST. See TRUST (No. 64).	
28. **DELIVERY-ORDER IN RESPECT OF GOODS,** that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees. [1879—Art. 26.]	One anna.
DEPOSIT OF TITLE-DEEDS. *[See AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]	

[°] Substituted for "See Agreement by way of equitable mortgage [No. 6]" by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 8 (2).

DISSOLUTION OF PARTNERSHIP. See PARTNERSHIP (No. 46).	
29. **DIVORCE**—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage. [1879—Art. 34.]	One rupee.
DOWER—Instrument of. See SETTLEMENT (No. 58). **DUPLICATE.** See **COUNTERPART** (No. 25).	
30. **ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT,** °[under the Indian	

Article 28 — Note 1

(1) A delivery-order in respect of goods "constitutes a document of title" in relation to them. (1911) 38 Cal 127 (141) (DB) ** **AIR 1916 PC 7 (8) = 43 Ind App 164 = 40 Bom 630.** (Railway receipt issued to the consignor of goods.)

Article 29 — Note 1

(1) As to instances of instruments falling under this article, see AIR 1920 Bom 101 (102). (Talaknama — Mahomedans.) ** (1882) 6 Bom 126 (128) (DB). (Farigh-Khat — Low caste Hindus.)

Article 30 — Note 1

(1) A person is not entitled to the benefit of the exemption if he was not enrolled as an advocate, vakil or attorney of any High Court. **AIR 1958 Andh Pra 63 (66) (SB).**

(2) The term "High Court" in the exemption clause is used not in a wider sense given to it under Section 3 (24) of the General Clauses Act, 1897 but is confined to those High Courts which are empowered to enrol advocates, vakils or attorneys under the provisions mentioned in the charging portion of the article. 1888 Punj Re No. 14, 36 (37) (DB) ** **AIR 1924 Rang 1 (2) (FB).**

(3) A person already enrolled as a vakil or an attorney in any High Court is not liable to pay stamp duty when he applies to be enrolled as an advocate of the same High Court. **(1885) 8 Mad 14 (15) (FB) ** (1909) 36 Cal 645 (646) (SB).**

(4) A person who had paid the stamp duty at the time of his enrolment as an advocate of the Rangoon High Court before the separation of Burma was held entitled to claim exemption under this article when he applied to be enrolled as an advocate of the Madras High Court. **AIR 1942 Mad 455 (456) (SB).**

(5) A First Grade Pleader of the late Judicial Commissioner's Court of Nagpur is not exempt from payment of duty when he

Bar Councils Act, 1926, or] in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners' Act,† 1884—	
(a) in the case of an Advocate or Vakil.	Five hundred rupees.
(b) in the case of an Attorney ..	Two hundred and fifty rupees.
Exemption	
Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	

[1879—Art. 27.]

[*] Inserted by the Indian Bar Councils Act, 1926 (XXXVIII of 1926), Section 19 and Schedule.

[†] Repealed by the Repealing Act, 1938 (I of 1938). Now see the Advocates Act, 1961 (25 of 1961).

*[* * * * *]

[*] The entry "Equitable Mortgage" was omitted by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 8 (3).

31. EXCHANGE OF PROPERTY.—Instrument of.....	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.

[1879—Art. 35; 1869—Sch. I, Art. 18; 1862—Sch. A, Art. 38; 1860—Sch. A, Art. 27.]

Article 30 — Note 1 (contd.)

applies to be enrolled as an advocate of the Nagpur High Court. AIR 1937 Nag 318 (320) (DB).

(6) A who was enrolled as an advocate of the Mysore High Court when the Mysore State was a Part B-State was recognised as an advocate of the Mysore High Court on the constitution of Mysore as Part A State under the States Reorganisation Act. A having applied to be enrolled as an advocate of the High Court of Andhra Pradesh, it was held that he was entitled to the exemption under this Article. AIR 1957 Andh Pra 350 (352) (DB).

(7) The petitioner who enrolled himself as a First Grade Pleader before the reorganisation of the States under the rules framed under the Legal Practitioners' Act was given a permanent sanad on a stamp paper of Rs. 500. Under the Hyderabad Bar Council Rules, he would have been entitled to be enrolled as an advocate of the Hyderabad High Court without paying any additional stamp duty. On that High Court ceasing to exist by reason of the States Reorganisation Act, the petitioner applied to the High Court of Andhra Pradesh for being enrolled as an advocate of that High Court without being required to pay the stamp duty of Rs. 625 prescribed by Aricle 25 of the Madras stamp Amendment Act, 3 of 1922. It was held that the petitioner must pay the prescribed stamp duty before he could be enrolled as an advocate. **AIR 1958 Andh Pra 63 (66) (SB).**

(8) Certificate of enrolment of Advocate signed by Registrar on 2-6-1953 — Stamp duty should be paid according to law in force on 2-6-1953 — In Himachal Pradesh, on this date Indian Stamp (Himachal Pradesh Amendment) Act (IV of 1953) was in force — This Act does not contain any exemption as is contained in Article 30, Schedule 1, Stamp Act, 1899 as interpreted in **AIR 1942 Mad 455 (SB)** — Advocate of Court of Judicial Commissioner, Bilaspur, enrolling as advocate of Judicial Commissioner's Court, Himachal Pradesh, on this date, is not entitled to any exemption from stamp duty. AIR 1954 Him Pra 51 (Prs 3, 4, 5, 6).

(9) The stamp duty levied under this Article or Article 25 (a) of Schedule 1A (Mad) is not of the same nature as the licence tax or privilege tax. The imposition of such duty is not invalid as being unconstitutional. AIR 1952 Mad 395 (Prs 39, 50) (DB).

(10) The right to the benefit of the exemption under Madras Article 25 can only arise in cases where the original entry itself would be applicable. This fact carries with it the implication that the enrolment referred to in the exemption is an enrolment which is similar to the class of enrolments referred to in the main provision itself. AIR 1954 Mad 78 (Pr 3) (DB).

(11) Though the expression "High Court" in Madras Article 25 is general, the "High Court" referred to therein is a High Court within the territory to which the Stamp Act applies. AIR 1954 Mad 78 (Pr 4).

(12) An advocate of the Travancore-Cochin High Court seeking enrolment as an advocate of the Madras High Court is not entitled to claim the exemption to stamp duty under Schedule 1A. Article 25 (Mad) (corresponding to this article). AIR 1954 Mad 78 (Pr 5). (The Indian Stamp Act is not in force in the State of Travancore-Cochin. A person entered on the rolls of that High Court was therefore under no obligation to pay the stamp duty under the entry in the Indian Stamp Act. He will therefore not be a person who has been previously enrolled in a High Court within the meaning of that expression in the exemption.)

(13) The High Court of Madras has also held that a person enrolled as an advocate of the Mysore High Court is entitled to exemption from payment of stamp for being enrolled as an advocate of the Madras High Court. AIR 1958 Mad 309 (312) (DB).

Article 31 — Note 1

(1) For the definition of "exchange", see Section 118 of the Transfer of Property Act.

EXTRACT. See COPY (No. 24).	
32. FURTHER CHARGE.—Instrument of, that is to say, an instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Art. No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Art. No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge, possession of the property is given, or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.

[1879—Art. 30; 1869—Sch. I, Arts. 11, 17.]

33. GIFT—Instrument of, not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62).	The same duty as a conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

[1879—Art. 36; 1869—Sch. II, Art. 37; 1862—Sch. A, Art. 35; 1860—Sch. A, Art. 25.]

Article 31 — Note 1 (contd.)

(2) Where one property is given in exchange for another property and nothing more is said about the consideration proceeding from one to the other of the two parties, the transaction is an exchange. AIR 1937 All 190 (192) ** **(1901) 25 Bom 696 (698) (FB).**

(3) Where one article is transferred in consideration of another article plus money, there being no indication of the elements of a mutual sale, there is an "exchange". AIR 1937 All 190 (192) ** **AIR 1934 Bom 231 (232) = 58 Bom 437 (SB).** (Money paid to equalize the values.)

(4) Where there was a definite agreement to pay the difference between the values of the properties transferred, by instalments, the instrument was held, on construction to be an agreement relating to the sale of goods within Article 5. Exemption (a). AIR 1937 All 190 (192).

(5) An "exchange" may be executed by only one of the parties. **(1877) 2 Cal 399 (403) (FB).**

Article 32 — Note 1

(1) The words "further charge" import that the parties to the original deed desire to increase the liability to which the land is already subject. (1933) Mad Stamp Manual p. 101 (101, 102).

(2) Where A mortgaged his land with possession to B for Rs. 180 and subsequently re-mortgaged the same to B for Rs. 250 which was made up of Rs. 180 due on the first mortgage and another sum of Rs. 70, due to B, it was held that second deed was not a deed of further charge. **(1901) 25 Bom 370 (372) (FB).**

(3) A executed a mortgage to B for a sum of Rs. 138 without possession. He subsequently executed another document in favour of B which recited that a sum of Rs. 138 was due under the prior mortgage and that a further sum of Rs. 180 was since received from the mortgagee, who was put in possession under the second deed. The latter did not cancel the prior mortgage and was, therefore, held to be a deed of further charge. (1933) Mad Stamp Manual p. 101 (101). Citing B. P. 806, Mis 8th July 1912.)

(4) A mortgaged to B with possession three acres out of five acres of his wet land for Rs. 500. Subsequently A executed in B's favour a deed of mortgage for Rs. 200 mortgaging five acres including those three acres already mortgaged. No possession was to be given under the latter deed. It was held that the latter transaction fell both under Aricles 32 (a) and 40 (b). (1933) Mad Stamp Manual p. 101 (101). (Citing B. P. 1716, 13th June 1883.)

(5) A property was mortgaged to three different persons under separate deeds for a total sum of Rs. 3,25,000. The mortgagor executed a subsequent mortgage for fresh advance of Rs. 75.000, charging the sum on the same property. All the prior mortgagees were parties to the latter deed and had agreed to extend the period of redemption of their respective mortgagees by four years. It was held that the deed was an instrument of further charge and an agreement. **(1899) 1 Bom LR 7 (10) (SB).**

(6) Creation of charge — Stamped and registered deed necessary. AIR 1956 Mad 434 (437) (DB).

Article 33 — Note 1

(1) Gift is defined in Section 122 of the Transfer of Property Act.

(2) Where a donee was directed in an instrument of gift to maintain the donor out

HIRING AGREEMENT or agreement for service. See AGREEMENT (No. 5).	
34. INDEMNITY BOND ..	The same duty as a Security Bond (No 57) for the same amount.

[1879—Art. 28; 1869—Sch. I, Art. 9.]

Article 33 — Note 1 (contd.)

of the profits of the land gifted the instrument was held to be a gift. **(1889) 12 Mad 89 (89) (SB).**

(3) An instrument which purports to be transfer by the executant of the property inherited by her from her husband subject to the payment of his debts and in which a provision is made for the maintenance of the executant and for the re-transfer of the property in case she gave birth to a son, is not a gift. **(1893) 16 Mad 419 (421) (SB).**

(4) A deed of surrender by a Hindu widow in favour of the reversioners is not a "gift". AIR 1947 All 104 (105) (DB) ** AIR 1948 Cal 84 (94) (DB).

[But see **AIR 1938 Pat 33 (34) (SB).**]

Also See Notes on Sch. I, Article 55.

(5) An instrument, described as an adoption-deed by which the adopter made to the adopted boy a gift of certain property, was held liable to duty as an instrument of gift and not as an adoption-deed. 1888 Bom PJ 45.

(6) A widow executed a settlement granting an annuity charged on the revenues of a village for religious purposes and on her adopting a son he endorsed that paper by way of ratification of the gift. It was held that the instrument was chargeable as a single instrument with duty payable for a deed of gift. **(1883) 7 Bom 194 (196) (SB).**

(7) Where in a sale-deed for a consideration of Rs. 1.500 it was stated that Rs. 800, being a portion of the consideration, were given as a present to the purchaser, it was held that the deed should be stamped merely as a sale-deed. (1933) Mad SM p. 102. (Citing B. P. 2251, 1st July 1884.)

(8) Where a deed of partition executed by the sons and attested by their mother recited the fact of surrender by the mother in favour of the sons as a past transaction it was held that the document was a pure and simple partition deed and no stamp duty was payable under this article. **AIR 1952 Pat 32 (Pr 4) (SB).**

(9) A document which is not an instrument of gift but only a record of past transaction does not require to be stamped under this Act. **AIR 1958 Raj 291 (293) (SB).**

(10) If the intention of the executant is to make the assignee presently absolute owner, the deed is a deed of gift. If the disposition is intended to have effect only after the death of the owner the deed is a will. (1883) 7 Bom 170 (177) (DB) ** (1933) Mad SM, p. 102. (Citing B. P. 1448-R., Mis 30th September 1908).

(11) A will does not become a deed of gift merely because some past acts of disposition are recited in it. **(1898) 22 Bom 632 (635) (SB).**

(12) Where by a document the executant, because of natural affection, bestowed upon his eldest sister and her son certain land and it did not appear that the object of the executant was to make a provision for them, the deed was held to be a gift and not a settlement. **(1884) 7 Mad 349 (350) (SB).**

(13) A deed making a gift to an idol whereby the idols are to be maliks of the properties was held to be neither a trust deed nor a settlement but a gift. AIR 1936 Cal 556 (561) (DB) ** **AIR 1944 Nag 33 (37) (FB).**

[But see ILR (1951) 1 Cal 665 (671, 672). (A direct gift by a deed which is a deed of non-testamentary disposition to a Hindu deity is a disposition of property for religious purpose and such deed is a deed of settlement for the purposes of Stamp Act, notwithstanding that there is no trust and no disposition of successive interest in immovable property.)]

(14) A document by which the executant, in pursuance of a razinama filed in a suit for maintenance brought against him by a widow, transferred certain land to her subject only to the condition that no further claim for maintenance was to be put forward by her, was held to be neither a settlement nor a gift but a conveyance. **(1968) 21 Mad 422 (425) (SB).**

(15) The words "as set forth in such instrument" refer back to the word "value" and not to the word "property". **AIR 1922 All 82 (83) (FB). (8 Mad 453 (FB). Relied on.)** ** AIR 1961 Madh Pra 6 (7).

[See also **(1885) 9 Mad 453 (455) (FB).**]

(16) There is no provision in the law authorising the Collector to ascertain the value of the property with a view to causing the instrument to be stamped with reference to the value thus ascertained. **AIR 1922 All 82 (83) = 44 All 339 (FB).**

(17) When a deed of gift does not mention the value of the property, the deed does not require to be stamped. A prosecution will, however, lie against the executant under Section 64 (a). **AIR 1922 All 82 (83) (FB)** ** AIR 1929 Nag 272 (272).

(18) Oral gift by Muslim lady — Subsequent document evidencing transaction executed as ekararnama — Document held a gift deed liable to stamp. **AIR 1962 Andh Pra 199 (201) (FB).**

(19) 'As set forth in such instrument' — Meaning of — Words refer back to value and not to property. AIR 1960 Pat 210 (211) (DB).

Article 34 —Note 1

(1) The usual covenant for title in a conveyance, though expressed as an indemnity bond, need not be stamped as such. The stamp for the conveyance covers such a covenant as it is a well-recognised part of it. **(1878) 1 Mad 133 (133) (SB).**

(2) A stipulation in a mortgage-deed whereby a mortgagor engages to pay to the mortgagee any cost the latter may incur in suits brought by the mortgagor's co-sharers, and any debts charged upon the property which the mortgagee may pay, need not be stamped as an indemnity bond. **(1885) 9 Bom 435 (437) (FB).**

INSPECTORSHIP-DEED. See COMPOSITION-DEED (No. 22).	
INSURANCE. See POLICY OF INSURANCE (No. 47).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.

Article 34 — Note 1 (contd.)

(3) An agreement between two parties recited that one party deposited certain promissory notes to secure the due fulfilment of his contract and it was further agreed that the promissory notes should be returned on due fulfilment of the contract — **Held**, that the agreement did not require a separate stamp as an indemnity bond. **(1889) 11 Mad 39 (39, 40) (SB).**

(4) An agreement executed after the mortgage, provided, firstly, that the mortgagor should hold the estate for the term of the mortgage at a certain rent and that on default of payment of rent the mortgagee may re-enter and let the land to other tenants, and secondly, that the mortgagor should make good any losses arising from the default of such subsequent tenants. It was held that the second part was a contract of indemnity against losses to be incurred after the determination of the lease and hence was not exempted under Section 10 (3) of Regulation XVIII of 1827. (1873) 10 Bom HCR (AC) 441 (443).

(5) An indemnity note executed in favour of a railway company by a consignee and his surety in respect of goods delivered to the consignee for which he could not produce a railway receipt, contained an undertaking by the executants to hold the railway company, its agents and servants, harmless and indemnified in respect of all the claims to the said goods. It was held that the note was not an indemnity bond and was merely an agreement chargeable under Article 5 (c). **(1881) 5 Bom 478 (481) (FB).**

(6) A provision in an agreement by a Company for compensation to be paid to the Managing Agent on the happening of one of the events specified therein is a term of the managing agency agreement. It cannot be treated as a separate contract of indemnity when there is no separate consideration for it. The provision for compensation is not a distinct matter but is part and parcel of the agreement as a whole and it is not therefore, liable to duty as an indemnity bond. **AIR 1956 All 25 (27) = ILR (1956) 1 All 188 (SB).**

ARTICLE 35 — SYNOPSIS

1. Agreement to lease.
2. Rent-free lease.
3. Lease of fishery.
4. Clause (a) — Premium.
5. Clause (a) (ii).
6. Clause (a) (iv).
7. Clause (a) (v) — Lease in perpetuity.
8. Lessee to pay Government assessment in addition to premium or rent.
9. Payments under collateral covenants.
10. Clause (b).
11. "Fine."
12. Clause (c).
13. Proviso.
14. Exemptions.
15. Agreement in lease exempt from duty.
16. Deed of attornment.

1. Agreement to lease.— (1) An agreement to lease is chargeable under this article even though the parties may contemplate the execution of a formal deed of lease later on. **(1894) 17 Mad 280 (281) (SB)** ** AIR 1947 Oudh 43 (43) (DB).

(2) In order to operate as an agreement to lease the document must amount to an actual demise, and must not be merely an agreement to grant a lease on the happening of certain contingencies. **AIR 1919 PC 79 (80, 81)** ** **AIR 1952 Bom 199 (200) (SB)** ** **ILR (1948) 2 Cal 323 (330) (FB).** ("Agreement to let" — Phrase covers only the case where agreement amounts to actual demise) ** AIR

(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;

(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.

The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered:

Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

Exemptions

(a) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

*[° ° * °]

[1879—Arts. 4, 39; 1869—Sch. I, Art. 19; 1862—Sch. A, Arts. 3, 39 to 42; 1860—Sch. A, Arts. 29 to 32.]

[°] Exemption (b) was omitted by A.O., 1937.

Article 35 — Note 1 (contd.)

1928 Bom 553 (555, 556) (DB). (Where person agreed to lease a property in which he had no present interest and which was not actually in existence) ** AIR 1929 Cal 50 (54) (DB). (A covenant for renewal at the option of the lessee.) ** **(1902) 25 Mad 3 (5, 6) (SB).** (Do.) ** (1940) Bihar SM p. 160 (Citing Board's file No. 58 of 1908; option to licensee under a prospecting license.)

(3) Document reciting that plaintiff owed defendent Rs. 7,000 on a pronote, that certain property shall be cultivated by the defendant for certain years, that grass growing on boundaries shall be used by plaintiff and incidental charges for maintenance of boundaries shall be borne by him — **Held** that it is an agreement to lease for purposes of Stamp duty as the document does not create actual demise of agricultural land. 1973 MPLJ 175 (176).

(4) In order to hold that agreement to let may be stamped as lease, it is necessary that such agreement should create actual demise. AIR 1969 Raj 22 (23) = 1968 Raj LW 332.

(5) An agreement to lease under Article 35 does not exclude agreements to lease which do not effect a demise either in present or in future but contemplate and bind parties to make a lease in future. AIR 1972 All 519 = 1972 All LJ 632.

(6) A document whereunder all the terms relating to lease have been settled and rent is paid in advance at the time of its execution creates present demise and is chargeable to stamp duty notwithstanding that a formal lease was to be executed later on and that formal delivery of possession is to take place at a later date. AIR 1971 J and K 86 (88, 89).

2. Rent-free lease.— (1) A rent-free lease is not chargeable under this article. **(1901) 3 Bom LR 401 (402) (SB)** ** AIR 1916 Pat 250 (251) (DB).

3. Lease of fishery.— (1) This article applies to leases of Government fisheries in Bengal. (1931) Beng SM Vol I, p. 74.

4. Clause (a) — Premium.— (1) Where a lease for four years at an annual rent of Rs. 15 provided that out of the rent Rs. 50 should be paid in advance and the balance of Rs. 10 at the end of the term, it was held that the stipulation was not for payment of premium or fine. **(1884) 7 Mad 203 (206) (SB).**

(2) Where the lease at a monthly rent provides that the lessee is to deposit an amount equal to one month's rent with the lessor returnable at the end of the tenancy, the stipulation is not for payment of a premium. **(1903) 26 Mad 473 (475) (SB).**

[See however (1933) Mad SM p. 109. (Citing B. Ps 684-R, Mis, 21st May 1909, Mis., 23rd November 1915.)]

(3) Where the lease provides that the lessee is to deposit a certain amount which would be appropriated to the last year's rent. the amount deposited is not a premium. **(1884) 7 Mad 203 (206) (SB)** ** 1933 Mad SM p. 107. (Citing B. P. 1143-R, Mis., 10th May 1902.)

[But see (1933) Mad SM p. 107. (Citing B. Ps. 105/1228-R., Mis., 23rd May 1902, 178/1168-R., Mis., 30th July 1908.)]

(4) A Municipal Board granted a lease to an Electric Company for 34 years in consideration of an annual rent of Rs. 3000 and of the repayment by the company of the loan borrowed by the Board from the Government in certain instalments. After the whole amount was paid up the generating station

Article 35 — Note 4 (contd.)
with buildings was to become the absolute property of the company. It was held the payment of the loan by the company was not a premium for a lease. **AIR 1934 Cas 803 (807, 808) (SB).**

(5) A lease of properties relating to a touring cinema is not chargeable to stamp duty under this article because the equipment of the touring cinema being collapsible and capable of being removed does not fall within the category of immovable property. **AIR 1955 Mad 620 (620, 621) = 1955 Cri LJ 1369 (FB).**

5. Clause (a) (ii).— (1) Where a lessee holding over wrote a letter to the lessor informing him that he agreed to continue the lease for a further period of three years provided a formal lease was executed to that effect and until then he would continue as a monthly tenant, it was held that it was not an agreement within Cl. (a) (ii) but was merely an offer to take a lease on certain conditions and therefore no stamp duty was payable thereon. AIR 1947 Oudh 43 (43) (DB).

6. Clause (a) (iv).— (1) Where a lease of a house or shop is granted on a tenancy from month to month with a proviso that the tenancy may be determined by a notice to quit or in some other manner and no term is fixed for the duration of the lease. the lease is one which "does not purport to be for any definite term." AIR 1938 All 304 (304) (DB) ** AIR 1948 Bom 336 (337) ** AIR 1943 Mad 643 (643) (DB) ** AIR 1939 Lah 531 (532) (DB) ** **AIR 1939 Mad 356 (357) (SB)** ** AIR 1945 Nag 178 (179) ** AIR 1941 Oudh 217 (218, 219).

[But see AIR 1919 Cal 200 (200) (DB).]

(2) A document which does not fix the period of lease cannot come within the sweep of clause (i) of Article 35 (a). If no definite term for lease is fixed and it is terminable by notice on either side, it is difficult to postulate that it is a lease for a term of less than one year. **AIR 1961 Andh Pra 1 (2) (FB).**

(3) Where under the instrument a lease for a definite term is given, the mere fact of an option under the lease to terminate the tenancy at any time or a proviso that the tenancy is to terminate on the happening of an uncertain event, does not make it a lease for an indefinite period. AIR 1939 Bom 215 (220).

(4) Where an instrument which was a lease was described by the parties to it as a licence and it did not specify any term during which the licensee was to remain in possession of the property, it was held that the instrument was chargeable under this clause. **AIR 1933 All 735 (739) = 55 All 874 (FB).**

(5) Terms of lease reduced to writing — Terms complex in nature and not capable of easily being remembered — Lease cannot be said to be oral merely because lessor had, prior to reducing terms in writing, delivered possession of premises and had come to some oral understanding. AIR 1972 Delhi 171 (175) = ILR (1972) 2 Delhi 17.

7. Clause (a) (v) — Lease in perpetuity.— (1) D executed a document in favour of A conveying the kudikani right in the lands for a certain sum and also providing for payment of an annual rent by A to D. No period was fixed for payment of rent. It was held that the document was chargeable under Article 35 (c) and Art. 35 (a) (v). 1933 Mad SM p. 110. (Citing BP 673; Mis, 15th June 1914.)

8. Lessee to pay Government assessment in addition to premium or rent.— (1) The lessee in addition to the premium paid or rent reserved agreeing to pay the Government assessment on the land, either directly to the Government or through the lessor — The amount of assessment must be taken into account for the purpose of assessing the stamp duty on the instrument. **(1884) 7 Mad 155 (160) (SB)** ** 1882 Pun Re No. 102, p. 290 (292, 295), (Plowden J. contra.)

[But see **AIR 1915 Bom 49 (50) (FB).**]

9. Payments under collateral covenants.— (1) Where a lease for a term at an annual rent provided that the lessee should, within a year, build a dwelling house by spending at least £ 150, it was held that the amount to be spent on the improvement was not to be taken into account for assessing the stamp duty. (1845) 153 ER 381 (382) = 14 LJ Ex 244.

10. Clause (b).— (1) Where the entire consideration for lease is paid in advance the lease is for a premium or fine even though the rate happens to be stated in the instrument. 1882 Pun Re No. 102, p. 290 (292) ** 1941 Nag LJ 103 (104).

(2) "Reserved" means that the rent is agreed to be paid and received as such and is not a payment which has already been made and received. 1941 Nag LJ 103 (104) ** **AIR 1952 Bom 285 (285) (SB).** ("Rent reserved" can only mean rent in respect of which there is a liability; rent in respect of which there is a covenant on the part of the lessee to pay the amount mentioned and stated in the document.)

(3) Lease for a period of twenty months for a consideration of Rs. 1000 — Rs. 400 paid on the date of the deed — Balance agreed to be paid within six months — **Held** that Rs. 1000 was a premium. (1933) Mad SM p. 107-108. (Citing B. P. 392-R Mis. 22nd February 1904.)

(4) Where before the execution of the lease certain amount was paid to the lessor in respect of the lease and there was no covenant to pay rent. but there was appropriation of the amount paid to rent which was stated as being for certain fixed amounts spread over the period of the lease, it was held that there was no reservation of rent under the lease and therefore the document should be stamped under Article 35 (b) and not under Article 35 (a) (iii). **AIR 1952 Bom 285 (285) (SB)** ** AIR 1961 Punj 12 (15).

11. "Fine."— (1) One meaning of "fine" is "an income or sum of money paid at the entrance of the tenant into his land." Another sense is "a sum of money paid for the renewal of a lease." 1882 Pun Re No. 102, p. 290 (293).

12. Clause (c).— (1) Where by a document purporting to be a deed of mortgage the owner made over possession to the mortgagee in liquidation of a debt and the mortgagee was to enjoy the produce of the land for nine years and to pay in addition Rs. 35

36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	*[Two annas.]

Article 35 — Note 12 (contd.)

per annum as rent, it was held that the instrument was a lease for a premium in addition to rent reserved. **(1884) 7 Mad 203 (206) (SB).**

(2) A lease at a monthly rent of Rs. 250 provided that the lessee was to deposit one month's rent with the lessor as a security for future payment of rent. **Held** that the lease was chargeable under this clause. AIR 1943 Mad 643 (643) (DB) ** **AIR 1961 Mad 210 (211) (FB).**

(3) The distinction between a premium and rent is that premium is one paid in consideration of the conveyance implied in the lease and is quantified in lump, whether it is paid outright or by instalments over a period or promised to be paid at a certain time. But, a rent, while it is also in consideration of a lease, is in lieu of the enjoyment which the lessee has and particularly as consideration therefor. **AIR 1970 Mad 288 (290) = (1970) 1 Mad LJ 417 (FB).**

(4) For attracting Article 35 (C) it is to be shown that money paid is advance i. e., it is payment prior to arising of liability on account of rent and that payment is in addition to rent reserved — Amount for which there is both liability and covenant to pay as rent cannot be termed as advance — Legal character of such amount paid is rent and merely because it is paid in advance under covenant its character does not change — Article does not apply in such case. **AIR 1966 Punj 488 (489) = ILR (1968) 1 Punj 44 (FB).**

(5) It has to be held that far from these two clauses providing for payment of a premium, the two clauses, contrary to the statutory right and obligations. make an adjustment of such rights and obligations, but subject to certain limits. Therefore cl. (c) of Article 35 of the Stamp Act is not applicable. **AIR 1970 Mad 288 (290) = (1970) 1 MLJ 417 (FB).**

13. Proviso.— (1) The object of this proviso is to relieve the subject from paying twice over on a document which has already been subjected to tax as falling under this article. **AIR 1952 Bom 199 (200) (SB).**

(2) In order to claim the benefit of this proviso it is not necessary that the prior agreement to lease, which is stamped with ad valorem stamp required for a lease should effect a present demise. If an agreement to lease is in fact stamped as a lease and in pursuance of that agreement a lease is subsequently executed then the parties are entitled to the relief which the proviso affords irrespective of the fact whether the prior agreement effects a present demise or not. **AIR 1952 Bom 199 (200, 201) = ILR (1952) Bom 881 (SB).**

14. Exemptions.— (1) The word "cultivator" connotes only those persons who actually cultivate the soil themselves or by hired labour and with their own or hired stock. It does not mean farmers, middlemen or lessees, even though cultivation may be carried on to some extent by such persons in the area covered by their lease. **(1883) 5 All 360 (363) (SB).**

(2) A lease to a cultivator for planting cocoanut trees is a lease for purposes of cultivation. **(1891) 15 Bom 73 (76) (SB).**

(3) A lease of land for building purposes or for production of salt does not come under the exemption. **(1886) 10 Bom 173 (174) (SB) ** ((1894) 18 Bom 546 (547) (FB) **** (1933) Mad SM p. 108 ** (1933) Mad SM p. 111. (Citing AIR 1916 Pat 250 (2).)

(4) The land which was the subject-matter of the lease was for a large part not cultivable or susceptible of being treated as a cultivator's holding. It was held that the lease could not come under the exemption. (1883) 5 All 360 (363).

(5) A lease for one year containing an option for renewal for a further period is not a lease for more than one year. (1890) 17 Cal 548 (555, 556).

(6) A lease for one year containing an expression on the tenant's part, of readiness to hold the land longer does not make it a lease for a period exceeding one year. (1933) Mad SM p. 110. (Citing BP 96-R, Mis., 12th January 1904.) ** (1884) 8 Bom 493 (494) (DB).

(7) A patta for one year containing statements intended to bind the tenant if he happens to remain in occupation for a longer period, is not a lease for more than one year. **AIR 1940 Mad 379 (382) (FB).**

(8) A lease for one year at a particular rent which is to remain in force "until another patta is granted" is not a lease for one year. (1881) 3 Mad 358 (359) (DB).

(9) Lease which is to remain in force so long as the lessee pays the stipulated rent is not for one year. (1872) 4 NWPHCR 36 (37) (DB).

(10) A zur-i-peshgi lease granted for one year and which is to remain in force if the loan was not repaid within that time is not a lease for one year. (1886) 13 Cal 113 (114) (DB).

15. Agreement in lease exempt from duty.— (1) An agreement for payment of weighment dues formed part of the consideration of a lease exempt from duty and was an integral part of it. **Held** that the agreement was also exempt from duty. AIR 1936 Oudh 74 (75) = 11 Luck 597.

16. Deed of attornment.— (1) A document by which the landlord asks his lessee to hold himself responsible to the transferee from the landlord does not require to be stamped. (1876) 25 Suth WR 80 (80) (DB).

Article 36 — Note 1

(1) Where a letter of allotment not duly stamped is admitted in evidence by the lower Court such admission cannot be called in question under Section 36 by the appellate Court. **(1900) 4 Cal WN 369 (386) (FB).**

See also CERTIFICATE OR OTHER DOCUMENT (No. 19). [1879—Art. 40.]	
[°] Substituted for "one anna" by the Indian Stamp (Amendment) Act, 1923 (XLIII of 1923), Section 2.	
37. LETTER OF CREDIT, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn. [1879—Art. 41; 1869—Sch. II, Art. 2; 1862—Sch. A, Art. 10; 1860—Sch. A, Art. 4.]	*[Fifteen naye paise.]
[*] Substituted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), Section 13 (1-10-1958) for "Two annas" which itself was substituted for "One anna", ibid, 1923 (XLIII of 1923), Section 2.	
LETTER OF GUARANTEE. See AGREEMENT (No. 5).	
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business of his own discretion. [1879—Art. 42; 1869—Sch. II, Art. 29; 1862—Sch. A, Art. 45; 1860—Sch. A, Art. 35.]	Ten rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under section 37 of the Indian Companies Act, 1882°;	Fifteen rupees.
(b) if not so accompanied ..	Forty rupees.
Exemption	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.† [1879—Art. 43; 1869—Sch. II, Art. 34.]	
[°] Now see the Companies Act, 1956 (I of 1956), S. 26.	
[†] Now see ibid, Section 25.	
40. MORTGAGE DEED, not being °[an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)], BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP	

Article 39 — Note 1

(1) "Company" does not include "a society" registered under the Societies Registration Act, XXI of 1860. (1931) Beng SM Vol 1. 78. (Citing Government of India Order No. 3518. dated 8th July 1920 — Board's Circular Order No. 12 of August 1890.)

ARTICLE 40 — SYNOPSIS

1. Charge.
2. Mortgage of movables.
3. Consent decree creating a charge on immovable property.
4. Security bonds hypothecating immovable property.
5. Clauses (a) and (b).
6. Amount secured.
7. Clause (c).
8. Exemption (2).

1. Charge.— (1) In view of the definition of mortgage deed in Section 2 (17) a deed creating a charge is treated as a mortgage deed and has to be stamped as such. AIR 1956 Mad 434 (437) = ILR (1956) Mad 983 (DB).

(2) Document held to be bond creating charge — Proper duty payable held was duty under Article 15 read with Article 40. **AIR 1957 All 391 (394) = ILR (1958) 1 All 1 (SB).**

2. Mortgage of movables.— (1) The following are some instances of mortgages of movable property.

(a) Mortgage of machwa (Boat). (1906) 8 Bom LR 344 (345) (DB).

(b) Mortgage of bullocks. (1902) 4 Bom LR 577 (581) (DB).

(c) Mortgage of grain boats. **(1894) 21 Cal 241 (244) (FB).**

(d) Mortgage of sugar-cane. **(1887) 9 All 585 (588) (FB).**

(No. 41), RESPONDENTIA BOND (No. 56), or SECURITY BOND (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when †[* *] possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000 ..	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000 ..	Eight annas.

Article 40 — Note 2 (contd.)

(e) Mortgage of growing crop. **(1885) 8 Mad 104 (107) (SB).**

[See also AIR 1918 Low Bur 33 (34). (Mortgage of crop.)]

(2) In a hypothecation the possession over the property is retained by the owner. AIR 1958 All 864 (865).

3. Consent decree creating a charge on immovable property.— (1) A consent decree creating a charge on immovable property is not a "mortgage-deed". **AIR 1935 Bom 256 (257) = 59 Bom 469 (SB).**

4. Security bonds hypothecating immovable property.— (1) Security bond in favour of Commissioner of Income-tax for discharge of income-tax liability — **Held** Article 57 and not Article 40 applied. AIR 1966 Punj 293 (296) = ILR (1966) 1 Punj 164.

5. Clauses (a) and (b).— (1) The words "agreed to be given" have been held not to cover cases in which it is stipulated that the mortgagees would be entitled to the possession of the property on the breach of a certain covenant or on the happening of an event which may or may not happen. AIR 1930 All 175 (176) ** **AIR 1926 Mad 1038 (1039) (FB)** ** (1931) Beng SM Vol. 1 p. 79 (Citing Board's file No. 144 of 1907).

(2) A document effecting a mortgage of melvaram right alone does not put the mortgagee in possession of the land. 1933 Mad Sm p. 121. (Citing B. P. 1058, Mis 30th August 1912.)

(3) Document mentioning sum advanced and date on which it was repayable — It contained various covenants by mortgagor regarding payment of interest, costs, charges, expenses between attorney and client, payment of compound interest, obligation of mortgagor to execute a first legal mortgage and payment of insurance — It also provided for giving of a notice by the mortgagor on his failure to pay amount on due date and dealt with acceleration of due date on the happening of contingency mentioned therein — **Held** that as the document contained many provisions which are not found in an agreement with regard to deposit of title deeds, particularly the provision with regard to acceleration the document was chargeable to stamp duty under Article 40 (b) and not under Article **6. AIR 1954 Bom 462 (Prs 2, 3, 4) (SB).**

(4) Agreement in respect of film under production — Not a mortgage-deed, it is only an agreement. AIR 1968 Mad 319 (324) = (1968) 1 Mad LJ 1.

(5) Agreement in respect of film under production — Party obliging himself to pay amounts advanced in a particular manner and in addition giving a camera as security — Film under production being neither a specified property nor property in existence the instrument was not a mortgage but a bond. AIR 1970 Mad 10 (12) = (1969) 2 Mad LJ 191.

6. Amount secured.— (1) In calculating the stamp duty for a Khanom the ascertained amount of compensation for improvements which is expressly named in the document and has been paid at the landlord's request by the incoming to the outgoing tenant must be included. **(1899) 22 Mad 164 (166) (SB).**

(2) The amount of rent reserved by a kanom deed is not "amount secured." (1933) Mad SM, pp. 120-121. (Citing Referred Case 19 of 1905 in B. Ps. 81/723-R., Mis. 4th April 1906 and 566, 2nd May 1911.)

(3) A document purporting to be a kanom renewal deed for Rs. 75 recited that a sum of Rs. 33 had been received by the jenmi from the mortgagee in the shape of "present" or renewal fee. **Held**, that the "present" was a part of the consideration for the execution of the mortgage with possession. (1933) Mad SM p. 120. (Citing Referred Case 1 of 1903 in B P 263/2439-R. Mis., 29th October 1903.)

Exemptions	
(1) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	
‡[* * * *]	

{1879—Art. 44; 1869—Sch. I, Arts. 10, 16 and Sch. II, Art. 20; 1862—Sch. A, Arts. 46 to 50; 1860—Sch. A, Arts. 7, 36, 39 to 41.]

[*] Substituted for "An Agreement to Mortgage (No. 6)" by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Section 8.

[†] The words "at the time of execution" were omitted, ibid.

[‡] Exemption 3 was omitted, ibid.

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether	

Article 40 — Note 6 (contd.)

(4) A provision in the mortgage-deed to which the mortgagee would be entitled whether he has stipulated for it in the deed or not does not require any stamp. (1838) 112 ER 973 (975) = 7 LJQB 263 ** (1832) 131 ER 356 (358) = 8 Bing 146.

(5) Where a deed of mortgage with possession contains clauses relating to the course to be pursued in the event of violation of its terms. the test to be applied in order to determine whether such clauses required to be stamped was whether the clauses related to matters naturally incident to the mortgage or not. (1933) Mad SM p. 118. (Citing B. P. 325 16th June 1892.)

(6) A deed of mortgage with possession provided for the mortgagor to collect paddy from the ryots towards rents, to retain a certain quantity towards the payment of Government revenue and to deliver a certain quantity at the residence of the mortgagee every year towards the payment of the debt. It was held that the document required to be stamped as a mortgage-deed only and the inclusion of the conditions of repayment did not affect the character of the deed itself. (1933) Mad SM p. 116. (Citing BP 2102, 18th September 1886.)

7. Clause (c).— (1) Clause (c) does not apply where the stipulation as to the original mortgage and that as to the collateral security are made simultaneously and are embodied in one and the same deed. AIR 1928 Lah 370 (371) (DB).

(2) A document, whereby the executant mortgaged certain lands to secure the payment of a sum due to the mortgagee under a promissory note previously executed is not a collateral security . (1933) Mad SM p. 121. (Citing BP 2011-R., Mis. 28th August 1902.)

(3) A executed a document on a proper stamp paper, mortgaging with possession some of his wet lands to B in consideration of the receipt of Rs. 2000. A suit arose in respect of the mortgaged property and A executed an instrument termed an indemnity bond, pledging some other fields as additional security. It was held that the instrument was governed by this clause. (1933) Mad SM p. 123. (Citing BP 273-R, 25th February 1918.)

(4) Agreement relating to deposit of title deeds — Deed of Mortgage — Differentiation — **Held.** that the recitals in the document created by their own force a mortgage in favour of the mortgagee quite apart from a deposit of title deeds and the stamp duty for such document was payable under Article 40 (b) and not under Article 6 (2) (c). AIR 1967 Mad 1 (3) = (1966) 2 Mad LJ 92.

(5) A security bond executed by the appellant in pursuance of an order of Court offering certain property as security for stay of execution of the decree appealed against must be stamped under Sch. 1, Article 40 and not under Article 57, and it must also be registered. AIR 1953 Pat 210 (211) = ILR 31 Pat 705 (DB).

8. Exemption (2).— (1) Where in consideration of advances to be made by a creditor the debtor executes a formal declaration of trust by which he holds his property on trust on behalf of the creditor it is not a letter of hypothecation. **AIR 1916 Mad 374 (376) = 38 Mad 646 (FB).**

(2) "It can hardly have been intended by the Legislature that a debtor in the mofussil desiring to mortgage his property should be executing a bill of exchange and giving a mortgage in the shape of a letter of hypothecation accompanying such bill, be able to evade the stamp laws and effect a mortgage for the duty chargeable only on a bill of exchange". AIR 1919 Cal 235 (239) (DB).

Article 41 — Note 1

(1) The executant by an instrument hypothecated a crop of sugar-cane to a company for a sum partly advanced and partly to be advanced. It was agreed that the sugarcane should be sold to the company and their price set off against the total sum that would be advanced. If any sum remained due by the executant after the set off, he agreed to pay the same. The instrument bore a stamp of two annas and was attested by witnesses. **Held,** that the instrument was sufficiently stamped. **AIR 1941 All 243 (247) (FB).**

(2) A mortgage, the subject-matter of which is not in existence, is a mere agreement for the purpose of this Act and is chargeable as such. **AIR 1945 Lah 69 (74, 75) (SB).**

the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200 ..	One anna.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna.
(b) when the loan is repayable more than three months, but not more than *[eighteen months], from the date of the instrument—	
for every sum secured not exceeding Rs. 100 ..	†[Two annas.]
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	†[Two annas.]

[*] Substituted for "One year" by the Indian Stamp (Amendment) Act, 1906 (V of 1906), Section 7.

[†] Substituted for "Four annas", ibid, 1904 (XV of 1904), Section 8.

42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.*	One rupee.
See also PROTEST OF BILL OR NOTE (No. 50).	

[1879—Art. 45; 1869—Sch. II, Art. 23; 1862—Sch. A, Art. 53; 1860—Sch. A, Art. 46.]

[*] See the Notaries Act, 1952 (LIII of 1952), Sections 2 (d), 3 and 8.

*[43. **NOTE OR MEMORANDUM** sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Two annas.

Article 41 — Note 1 (contd.)

(3) A mortgage of a future crop, when the loan is repayable more than eighteen months from the date of instrument, has been held to be chargeable under Article 40 (b). (1933) Mad SM p. 126. (Citing BP 2367-R., Mis., 19th November 1904.)

(4) Where the document read as a whole has dual character of being an agreement for sale of sugarcane and also a mortgage of the sugarcane crops until the entire dues advanced by way of seed, manures, sanai and plough are satisfied, the document is chargeable with the higher duty under Sch. I, Article 5 (c) and not under Article 41 by virtue of Section 6 of the Act. AIR 1951 Pat 9 (Prs. 5, 8) (DB).

Article 42 — Note 1

(1) Compromise decree creating charge on property — Right to appropriate income from property towards decretal amount given — Owner of property prohibited from creating any other charge on it — Power of attorney authorising such appropriation also required to be executed — Document so executed is only power of attorney. **AIR 1968 Andh Pra 142 (146) = (1967) 2 Andh LT 123 (FB).**

(2) Certificate or endorsement by Notary Public on affidavits falls within Art. 42 so as to require notarial stamp. AIR 1969 All 195 (198).

Article 43 — Note 1

(1) Where a contract relating to sale is contained in "bought and sold notes" each note is chargeable under this article and is not exempt from duty under Exemption (a) to Article 5 of Sch. I. (1890) 14 Bom 102 (110) (DB).

(2) The fact that a bought or sold note also contains a clause to refer disputes between the parties to arbitration will not make it chargeable under Article 5 (c). (1912) 39 Cal 669. (677, 678) (15 Mad 150, Rel. on.) ** (1913) 40 Cal 219 (229) (DB).

[But see (1909) 1 Ind Cas 371 (374) (Cal.)]

(3) A document headed as "Official Form of Client's Contract Note" was sent by B, a member of the East India Cotton Association to his client A who was a non-member. The document purported to be a sale of a certain number of bales of cotton made by B for A as commission agent subject to certain conditions and by-laws of the association. It was provided that the contract was to be deemed as entered into as between principal

(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock of security.]

[1879—Art. 46.]

[*] Substituted for the original article by the Indian Stamp (Amendment) Act, 1910 (VI of 1910), Section 3.

44. NOTE OF PROTEST BY THE MASTER OF A SHIP. See also PROTEST BY THE MASTER OF A SHIP (No. 51).	Eight annas.

[1879—Art. 47; 1869——Sch. II, Art. 12; 1862—Sch. A, Art. 60.]

ORDER FOR THE PAYMENT OF MONEY. See BILL OF EXCHANGE (No. 13) .	
45. **PARTITION** — Instrument of [as defined by Section 2 (15)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. **N.B.**—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Article 43 — Note 1 (contd.)

and principal as provided by by-law 81-A. It was held that the contract was not chargeable under this article but was exempt from duty under exemption (a) to Art. 5. **AIR 1944 Bom 325 (328, 329) (SB).**

(4) Contract note sent by pakka adatia to constituent intimating sale and purchase of goods held exempt from duty under Article 5, Exemption (a). **AIR 1947 Bom 343 (345) (FB).**

(5) Where a broker does not act for both the parties, a note sent by him to his principal of a purchase made by him is not covered by this article. (1824) 171 ER 1223 (1223, 1224) = 1 C and P 341.

(6) The words of the suit contract note were "we have this day sold for you 4,000 shares" — Affixing of stamps on the back of the contract according to requirement of Sch. 1, Article 43 read with Rule 17 (f) Indian Stamp Rules — **Held** that the document was intended to have the appearance of a Broker's note. AIR 1954 Cal 179 (Pr. 17).

(7) The document to fall under Article 41 of Sch. I of the Zanzibar Stamp Decree (1940) (which corresponds to Sch. I. Article 43 of the Indian Stamp Act) should be signed by the parties and until this was done the document could not be described as intimation by the broker, of a purchase or sale but was only a draft of proposed terms to which the parties by signing could agree. (1955) 2 WLR 991 (996) = 1955 App Cas 617.

ARTICLE 45 — SYNOPSIS

1. "Value of separated share."

2. Proviso (b).

3. Proviso (c).

4. Instrument of partition containing disposition of property to relations, etc.

5. Partition suit involving several reliefs.

1. "Value of separated share."— (1) The value of the separated shares is their market value at the time of partition. **(1880) 2 All 664 (666) (SB)** ** (1931) Beng SM (Vol 1) p. 82 ** (1933) Mad SM p. 127.

(2) Where encumbrances are specifically charged on the property, the value is the market-value minus the encumbrances or liabilities. (1933) Mad SM p. 127. (Citing B. P. 295, 13th May 1891) ** (1933) Mad SM p. 129. (Citing B P 474-R., Mis.. 16th April 1918 — In case of mortgage, "value" includes the accrued interest.)

(3) Debts which do not bind the property and lessen its value are not to be deducted from the market value. (1933) Mad SM p. 127. (Citing B P 295, 13th May 1891.)

(4) Deed reciting that family had already divided and some property was still held in common by executant and his father and that it was being divided by deed for the first time — Deed stating value of property received by him — Deed held to be instrument of partition and stamp duty leviable was on value of total share of executant separated from larger share. **AIR 1949 Lab 126 (128) (SB).**

(5) Where in an appeal by the defendants against whom the decision went in the suit, a decree was directed to be passed in terms of the compromise by which the parties agreed to divide the properties in a particular way, it was held that the compromise which resulted in a division of the properties practically into two equal shares was an instrument of partition requiring to be stamped on non-judicial stamps under Section 6 read with Article 45. AIR 1958 Andh Pra 457 (458).

(6) Where the instrument is chargeable, the fact that it mentions no value does not make it unchargeable. 1966 Raj LW 419 (422).

(7) Partition deed of "assessed lands" — Assessment of stamp duty — Standing crops on such land should not be separately valued — Expression "land" carries with it all the fixtures thereto like trees, plants, crops and the like. **AIR 1970 Mad 290 (291) = (1970) 1 Mad LJ 416 (FB).**

(8) Where the final decree for partition is not engrossed as required by Article 45

Provided always that—

(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas:

(b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue;

Article 45 — Note 1 (contd.)

of Sch. I, Court has no jurisdiction to act upon it — It can be challenged even at stage of execution. AIR 1973 Delhi 154 (156).

(8A) Partition deed — Valuation of shares for stamp duty — Calculation of — Future liabilities and encumbrances may be deducted — Details of liabilities may not he mentioned in deed. **1972 Tax LR 2442 (2447) = ILR (1972) 1 Delhi 137 (SB).**

(9) Deed executed by a son in joint family relinquishing his share to family property for agreed sum — Cash assets intended to be given from common family property — Document is instrument of partition — Requires stamp duty under Article 43. **AIR 1964 Mys 124 (129) (SB).**

(10) Dissolution of partnership — Division of assets embodied in document — Instrument is one of a partition. **AIR 1963 Andh Pra 474 (476) (SB).**

(11) Document being composite document consisting of memorandum of "dissolution of partnership-cum-partition — "Six bonds" and one "power of attorney" — No stamp duty is leviable under Article 45, as the document does not fall within the definition of "Instrument of partition." **1971 All WR (HC) 140 (143) (SB).**

2. Proviso (b).— (1) This proviso applies only to ryotwari lands and not to lands held on zamin tenure paying rent to the zamindar who pays peshkush to the Government. (1933) Mad SM p. 120. (Citing B. P. 336-R., Mis, 21st November 1932.)

(2) In calculating stamp duty on partition-deeds affecting ryotwari lands the proper procedure is to take the value of the land at its true market-value without limitation and deduct the liabilities from it; that if the net amount equals or exceeds five times the annual assessment, then duty should be charged on such sum of five times the assessment; but if it is less than five times the assessment then duty should be charged on the net amount ascertained by the above process. (1933) Mad SM p. 129. (Citing B. P. 436. 11th October 1897.)

(3) Sir and khudkasht lands which form part of the Mahal belonging to the parties should be valued not separately but five times the land revenue. 1946 Nag LJ 530 (531).

3. Proviso (c).— (1) If the award is not so stamped, the decree passed on the award must bear stamp prescribed by the article. AIR 1935 Lah 364 (367) (DB).

(2) Award by arbitrator directing partition — Award will be liable to stamp duty. AIR 1955 Ajmer 52 (53).

(3) Award by Arbitrator directing partition of property becomes instrument of partition chargeable with stamp duty as soon as it is made, and requires to be stamped at that very time when it is signed by arbitrator. 1969 All WR (HC) 666 = 1969 All LJ 782 (783).

(4) Partnership — Dissolution — Matter referred to arbitration — Relinquishment of their rights in the partnership for specified consideration by some partners as per award directing partition of assets — Award has to be stamped under Article 45. AIR 1966 Andh Pra 184 (187) = (1965) 2 Andh WR 276.

(5) Award merely enabling certain partners to retire from partnership and to withdraw their share of profits and capital — Award held to be not an instrument of partition and payment of stamp duty on award under Article 45 cannot be ordered. 1964 Cur LJ 176 (177) (Punj).

4. Instrument of partition containing disposition of property to relations etc.— (1) In determining the stamp duty in respect of partition deeds containing dispositions of property in favour of relations or dependents or for charitable or religious purposes, etc., the criterion is to see whether the provision is essential to the partition or not. (1933) Mad SM p. 130 ** (1933) Mad SM p. 127.

(2) Fact that instrument of partition of coparcenary properties also shows release of certain item by one sharer in favour of another does not per se convert instrument into one of release. **AIR 1971 Mad 210 (213) = (1971) 1 Mad LJ 177 (FB).**

(3) Maintenance. education and marriages of unmarried daughters to be performed in future are legal liabilities on joint family property even after coming into force of Hindu Succession Act (1956). These liabilities can be deducted from the market value of the property for calculation of stamp duty on the partition deed. **1972 Tax LR 2442 (2447) = ILR (1972) 1 Delhi 137 (SB).**

(4) Partition deed in respect of joint family properties between father and sons and another — Deed comprising property in joint possession of mother, son and grandson — Mother giving up her life interest in that property in favour of son and grandson —

	(c) where a final order for effecting a partition passed by any Revenue-authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

[1879—Art. 37; 1869—Sch. I, Art. 18 and Sch. II, Art. 39; 1862—Sch. A, Art. 54; 1860—Sch. A, Art. 42.]

46. PARTNERSHIP—	
A.—INSTRUMENT OF—	
(a) where the capital of the partnership does not exceed Rs. 500;	Two rupees eight annas.
(b) in any other case ..	Ten rupees.
B.—DISSOLUTION OF ..	Five rupees.

[1879—Arts. 32, 33; 1869—Sch. II, Art. 26; 1862—Sch. A, Art 27; 1860—Sch. A, Art. 20.]

Article 45 — Note 4 (contd.)

Deed stamped as partition deed — **Held,** the document does not therefore comprise two distinct transactions of partition and conveyance falling under Articles 45 and 23. respectively of Schedule I to the Stamp Act and is not subject to levy of stamp duty under both of the said Articles. The document was a release within the meaning of Article 55. **AIR 1970 Mad 348 (349) = (1970) 2 MLJ 326 (FB).**

5. Partition suit involving several reliefs.— (1) Where in a partition suit involving several reliefs a decree is passed and the several portions are separable and the decree is unstamped as required by this article, a portion of the decree which is not liable to duty can be proved without reference to the other portions of the decree which is inadmissible in evidence. AIR 1935 Lah 364 (367) (DB).

(2) A portion of the above decree can be executed on payment of stamp duty as required by this article. AIR 1935 Lah 342 (343).

(3) Final decree for partition is instrument of partition. **AIR 1956 Mad 207 (FB).**

(4) Sole decree for partition specifying allotments not followed by formal decree on requisite stamp paper — It was open to parties to effect amicable partition by metes and bounds. (1961) 65 Cal WN 743.

(5) Partition — Suit for — Defendants' application for final decree by separation of their share — They have to pay court- fees and stamp-duty, if any. AIR 1966 All 601 (602).

(6) Final decree for partition drawn on plain paper — Court does not become functus officio. AIR 1957 Mys 71 (72).

(7) Property divided into shares and lists drawn up in the form of book — List allotted to each co-owner by drawing up lots — All co-owners signing list only after such allotment — Book containing the lists in question is instrument of partition and liable to stamp duty. **AIR 1964 Andh Pra 107 (108) (SB).**

(8) Final decree in terms of compromise in partition suit — Properties allotted to each share specified — Decree not engrossed on stamp paper — Legal title does not accrue in favour of any party. AIR 1957 Cal 375 (376).

(9) Final decree in partition suit — Execution by defendant — Defendant need not pay Court-fee in order to have this share separately allotted to him. 1964 All LJ 1013.

Article 46 — Note 1

(1) For a definition of "partnership" see Section 4 of the Indian Partnership Act.

(2) One firm cannot form partnership with another firm or individual. AIR 1935 All 767 (768) (DB).

(3) In determinating the stamp to be affixed to a document, the state of things at its execution is alone to be regarded. (1863) 1 Mad HCR 226 (228) (DB).

(4) A executed a document in favour of B whereby B made over certain indigo wats to A for ten years on condition that A should, realizing the advances made to the ryots, work the indigo wats with his funds and after deducting his own money with interest divide the profits between them annually. It was held that the document was an instrument of partnership. (1903) Mad SM p. 131. (Citing B. P. 1680, 5th November 1880.)

(5) A document containing some arrangements for better management of the partnership already existing between the parties was held not liable as an instrument of partnership. **AIR 1942 All 220 (221) (SB).**

(6) A dissolution of partnership must be with reference to the whole of the assets of the partnership. **(1901) 3 Bom LR 132 (133) (FB).**

(7) An instrument may be both an instrument of dissolution of a partnership and an instrument of partition or a release as well as a dissolution of partnership. See the following cases. **AIR 1937 Mad 308 (309) (SB)** ** (1933) Mad SM p. 131.

(8) The document proceeded on the footing that the five persons, namely, the three executants and the two persons in whose favour the instrument was executed, who were carrying on business of a firm owned the property as co-owners, the executants

*[Pawn or pledge.—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6).]

[*] Inserted by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), Section 8 (6).

	If drawn singly	If drawn in duplicate, for each part
47. POLICY OF INSURANCE—		
*[A.—SEA-INSURANCE (see section 7)—		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of †[* *] or one-eighth per centum of the amount insured by the policy;	‡[Ten naye paise]	‡[Five naye paise].
(ii) in any other case, in respect of every full sum of §[one thousand five hundred rupees] and also any fractional part of §[one thousand five hundred rupees] insured by the policy;	‡[Ten naye paise]	‡[Five naye paise].
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy — where the insurance shall be made for any time not exceeding six months;	‡[Fifteen naye paise]	‡[Ten naye paise].
Where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	‡[Twenty-five naye paise]	‡[Fifteen naye paise].

Sch. I Article 46 — Note 1 (contd.)

being entitled to a three fifths share and the other two being entitled to the remaining two fifths share. The document recited that in consideration of certain amount the executants released, extinguished, abandoned cancelled and relinquished their rights, claims etc. in respect of the property, interest, etc. There was no division of the property by metes and bounds and in accordance with the said shares. It was held, that the document was not a deed of dissolution of partnership. But it was a release deed falling under Article 55. **AIR 1955 Mad 641 (642) = ILR (1955) Mad 1133 (FB).**

(9) A and B carried on business in partnership, A having contributed Rupees 44,000 towards the capital of the partnership and B Rs. 32,000. Long before the dissolution of the partnership B received back his capital contribution and, thereafter, he entered into a deed of dissolution. It was held that since the payment of Rs. 32,000 to B was not made under the deed the deed did not amount to a conveyance but was a deed of dissolution and had to be stamped as such. **AIR 1958 Mad 254 (255) = ILR (1958) Mad 230 (FB).**

(10) Where after adjustment of the dues of each of the two parties to a document. it was finally recited: "From this day onwards each party should enjoy and bear loss and profit in any transaction and have no concern whatever with their business (borrowing or giving loans) it was held that the document was one for dissolution of partnership and not a deed of partnership. AIR 1959 Orissa 144 (148) (DB).

(11) A document contained a list of various items and as against each item a sum of rupees was mentioned. These sums were added and the total was given. This total was treated as credit in favour of one of the brothers due from the other brother. Other items of debit against him were next set out and these debit items were totalled up. These credit and debit items were in regard to the businesses carried on by the two brothers who had become divided long ago. The net excess due by the one to the other was arrived at. It was held that it was a composite document portion of which might be construed as a deed of dissolution of partnership chargeable to duty under Sch. 1, Article 46-B. **AIR 1961 Mad 504 (511) (FB).**

(12) Parties to suit for partition entering into partnership by excuting a document — One of parties throwing family property in partnership after releasing it from Court on payment — Document is deed of partnership simpliciter — Dutiable as such under Article 46 and not under Article 23. AIR 1970 Mad 5 (7) = (1969) 2 Mad LJ 91.

(13) Default in payment of interest on mortgage — Mortgagor giving possession of property to mortgagee — Mortgagee under obligation to collect rent pay certain sum to mortgagor for his maintenance and residue to be adjusted towards his dues — Document is not mortgage deed within meaning of Schedule 1. Article 40. AIR 1965 Mad 192 (193). = (1965) 1 Mad LJ 346.

(14) Duty payable on document — Whether a document is an instrument of dissolution of partnership or a deed of conveyance or a mortgage-deed or other composite deed depends on transactions recorded and intention of parties. **AIR 1972 All 1 (7) = 1971 All LJ 974 (SB).**

Article 47 — Note 1

(1) An entrance certificate granted under rules of the Uncovenanted Service Family Pension Fund is a life policy within Sec. 3

°†[B.—FIRE-INSURANCE AND OTHER CLASSES OF INSURANCE, NOT ELSEWHERE INCLUDED IN THIS ARTICLE, COVERING GOODS, MERCHANDISE, PERSONAL EFFECTS, CROPS, AND OTHER PROPERTY AGAINST LOSS OR DAMAGE]—	
(1) in respect of an original policy—	
(i) when the sum insured does not exceed Rs. 5,000;	‡[Fifty naye paise].
(ii) in any other case;	One rupee.
and	
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.]
C.—ACCIDENT AND SICKNESS INSURANCE—	
(a) against railway accident, valid for a single journey only.	‡[Ten naye paise].
Exemption	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(b) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rupees 1,000, for every Rs. 1,000 or part thereof.	‡[Fifteen naye paise]: *‡[Provided that, in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. ‡[2.50] per Rs. 1,000, the duty on such instrument shall be ten naye paise for every Rs. 1,000 or part thereof of the maximum amount which may become payable under it.]
°§[CC.—INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation	‡[Ten naye paise].]

Sch. I Article 47 — Note 1 (contd.)

(15) of the Stamp Act of 1879, for an amount not exceeding Rs. 1000. **(1892) 19 Cal 499 (503) (SB).**

(2) A Provident Society issued the certificate of membership in the following terms — "You have on condition of your conforming to the rules and regulations of this Society from time to time in force, insured your life in the class of this Society at the age of etc." Held that the certificate did not come under the Stamp Act, Article 19 but fell under Article 47 (d). **(1910) 25 Bom 376 (378) (FB).**

(3) A certificate of membership in the Madras Hindu Family Provident Fund (Limited) must be stamped as a policy of life insurance. (1933) Mad S M p. 134.

(4) Schedule 1, Article 47 makes exemption. The General Exemption must be regarded as exempting documents which have the character or substance of an insurance policy but at the same time are not quite the same as an insurance policy itself. Merely because a letter of cover has very nearly the features of a policy of insurance it does not become an instrument chargeable with duty under Section 3. AIR 1961 Cal 48 (50) (DB).

(5) 'Letter of cover' — What constitutes — Document addressed to insured by name and signed by insurance company — Words 'Dear Sir' or 'Yours faithfully' absent — Such words are not requisites of letter of cover, when spirit of letter is there — Document constitutes letter of cover. AIR 1961 Cal 48 (52) (DB). **(Reversed** on another point in **AIR 1964 SC 1396).**

(6) The words 'letter of cover' and 'protection notes' are sometimes indiscriminately used in India as more or less equivalent expressions without observing the technical differences that have crept in the English law. AIR 1961 Cal 48 (53) (DB). **(Reversed** on another point in **AIR 1964 SC 1396).**

(7) General exemption — Fire Insurance policy — Letter of cover — It is not exempted from stamp duty for all purposes — It could be admitted in evidence on payment of duty and penalty under Section 35. **AIR 1964 SC 1396 (1398, 1399).** (AIR 1961 Cal 48, **reversed.)**

(8) Letter of cover — Effect — Insurance company having option to decline policy under terms of the documents — Still for the period covered by the document the insured can insist on a policy being issued, though it is not the policy which was to follow as the more permanent contract of insurance. AIR 1961 Cal 48 (53) (DB). **(Reversed** on another point in AIR 1964 SC 1396.)

(9) Document merely declaring existence of trust coupled with transfer of its management — Does not fall within definition of term 'conveyance' — Stamp duty leviable thereon will be governed by Article 47-A and not under Article 17. **AIR 1970 Madh Pra 23 (26) = 1969 MPLJ 747 (FB).**

	If drawn singly	If drawn in duplicate for each part
under the Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium.		
‡§[D.—LIFE INSURANCE †§[FOR GROUP INSURANCE OR OTHER INSURANCE] NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE, as is described in Division E of this article—		
(i) for every sum insured not exceeding Rs. 250;	‡[Fifteen naye paise]	‡[Ten naye paise].
(ii) for every sum insured exceeding Rs. 250 but not exceeding Rs. 500;	‡[Twenty-five paise]	‡[Fifteen naye paise].
(iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000.	‡[Forty naye paise]	‡Twenty naye paise].
Exemption		
Policies of life-insurance granted by the Director General of Post Offices in accordance with rules for Postal Life-Insurance issued under the authority of the Central Government.]		
E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY ‡‡[of the nature specified in Division A or Division B of this Article] with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	‡§[N. B.—If a policy of group insurance is renewed or otherwise modified whereby the sum insured exceeds the sum previously insured on which stamp-duty has been paid, the proper stamp must be borne on the excess sum so insured.]	
General Exemption		
Letter of cover or engagement to issue a policy of insurance:	One-quarter of the duty payable in respect of the original insurance but not less than ‡[ten naye paise] or more than one rupee: *†‡[provided that if the total amount of duty payable is not a multiple of five naye paise, the total amount shall be rounded off to the next higher multiple of five naye paise.]	
Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except, to compel the delivery of the policy therein mentioned.		

[1879—Art. 49; 1869—Sch. I, Art. 8; 1862—Sch. A, Arts. 55, 56; 1860—Sch. A, Arts. 43, 44].

[*] Substituted for the original divisions A and B by the Indian Stamp (Amendment) Act, 1906 (V of 1906), S. 7.

[†] The words "fifteen naye paise or" were omitted by the Finance Act, 1961 (XIV of 1961), S. 16 (a) [29-4-1961].

[‡] Substituted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), S. 18 [1-10-1958].

[§] Substituted for the words "one thousand rupees" by the Repealing and Amending Act, 1928 (XVIII of 1928), S. 2 and Sch. I.

[*†] Substituted for "Fire-Insurance" by the Indian Stamp (Amendment) Act, 1923 (XLIII of 1923), S. 2

[*‡] Added by Act XVIII of 1928, S. 2 and Sch. I.

[°§] Inserted by the Indian Stamp (Amendment) Act, 1925 (XV of 1925), S. 2.

[†‡] Substituted for the original division D by Act XVIII of 1928, S. 2 and Sch. I.

[†§] Substituted for the words "or other insurance" by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), S. 7 (w. e. f. 1-4-1956).

[‡§] Inserted, ibid.

[‡‡] Substituted for the words "of Sea-Insurance or a Policy of Fire Insurance" by Act XLIII of 1923, S. 2.

[*†‡] Inserted by Act XIV of 1961, S. 16 (b) (29-4-1961).

48. POWER-OF-ATTORNEY [as defined by section 2 (21)], not being a PROXY (No. 52),—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	**Eight annas.**
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	**Eight annas.**
(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	**One rupee.**

ARTICLE 48 — SYNOPSIS

1. Clause (b).
2. Clause (g).
3. Powers-of-attorney — Special and general.
4. Joint power-of-attorney given by two or more persons.
5. Power-of-attorney executed outside British India.

1. Clause (b).— (1) A vakalatnama to be used in the Presidency Small Cause Court is governed by Clause (c). AIR 1934 Bom 299 (301) (DB).

2. Clause (g).— (1) This clause read with clause (e) means that if there are more than ten persons authorised to act jointly or severally in more than one transaction or generally, then stamp duty payable is according to the number of persons and it is one rupee to each person authorised. AIR 1952 Mad 515 (Pr 24c) (DB).

3. Powers-of-attorney — Special and general.— (1) "A single transaction" used in the various clauses must be taken to apply either to a single act or to acts so related to each other as to form one judicial transaction. AIR 1916 Mad 601 (602, 603).

(2) A sunnad authorising a gomasta to collect rents generally and to sue for them, if necessary, is a general power-of-attorney and must be stamped as such. **(1868) 1 Beng LR 55 (58) (FB).**

(3) A power-of-attorney authorising the agent to do all things and take all steps necessary to complete the execution of a decree is a general power-of-attorney coming under Cl. (d). AIR 1916 Mad 601 (603) ** **(1901) 3 Bom LR 890 (891) (FB)** ** (1870) 7 Bom HCR (AC) 10 (16, 17) (DB).

[But see (1911) 33 All 487 (490).]

(4) A general power-of-attorney must confer upon the donee of the power all necessary powers with regard to the business of the donor or at least with regard to a particular class of business of the donor. However full the powers may be which are conferred upon the donee, if they relate to one particular matter, then the mere fact that wide and full powers are conferred upon the donee with regard to one specific matter will not make the power of attorney a general power of attorney. AIR 1959 Bom 386 (388, 390) (DB).

(5) Where the document is a composite document consisting of memorandum, of "dissolution of partnership-cum partition" six bonds and 'power of attorney' it is chargeable under Section 5 read with Articles 15 and 48 (d) of the Stamp Act as in force in **U. P. 1971 All WR 140 (143) (SB).**

4. Joint power-of-attorney given by two or more persons.— (1) There is no objection to two or more persons jointly executing a power-of-attorney to one and the same person, provided there is a community of purpose between the persons so executing the instrument. (1934) Pun SM Part I-B, Ch. 3, p. 32 (32).

(2) Where 36 persons authorised the same individual by a single power-of-attorney to receive certain money in which all of them were interested and to sign the refund bill, it was held that a one rupee stamp under Cl. (b) of Art. 50 of Sch. I to Act I of 1879 was sufficient. **(1886) 9 Mad 358 (359) (SB).**

(3) Document executed by a number of mirasidars authorising a person to recover for them swatantrams and other continual income appertaining to their rights. **Held,** that the deed should be stamped under Clause (c) of Article 50, Act I of 1879. **(1892) 15 Mad 386 (389) (SB).**

(4) Eighty-one persons executed a joint power-of-attorney empowering one agent to act for them all in obtaining pattas from the Mittadars and in the matter of any proceedings relating to distraint, etc., and also to represent them and conduct all matters in the Revenue Courts in respect of all other revenue proceedings. The persons were unconnected and had no common interest in the joint property. It was held that separate powers-of-attorney must be executed. **(1892) 2 Mad LJ 178 (180) (SB).**

(5) When two persons join in executing a power-of-attorney, whether it comprises distinct matters or not will depend on whether the interests of the executants in the subject-matter of the power are separate or joint. Conversely, if one person holding properties in two different capacities, each unconnected with the other, executes a power in respect of both of them, the instrument should logically be held to comprise distinct matters. **AIR 1956 SC 35 (40) = (1955) 2 SCR 842. (AIR 1952 Cal 815 (SB), Reversed.)**

(6) **Held** on facts that there was community of interest so far as the management of the joint business and the property of all was concerned. But no such community of interest could be said to exist with respect to the management of the separate property of each of the 13 persons for whom the agents were authorised to act. The power of attorney provided not merely for a unified

(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Five rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(g) in any other case . . .	One rupee for each person authorised.

Explanation.— For the purposes of this article more persons than one when belonging to the same firm shall be deemed to be one person.

N. B.—The term "registration" includes every operation incidental to registration under the *Indian Registration Act, 1877.

[1879—Art. 50; 1869—Sch. II, Arts. 13, 18, 19, 32; 1862—Sch. A, Arts. 43, 44; 1860—Sch. A, Art. 34.]

[*] See now the Indian Registration Act, 1908 (XVI of 1908).

*[49. PROMISSORY NOTE [as defined by section 2 (22)]—	
(a) when payable on demand†—	
(i) when the amount or value does not exceed Rs. 250;	‡[Ten naye paise].

Sch. I Article 48 — Note 4 (contd.)

management of the joint business and the common property of all as a single unit but also for separate management of different properties owned, by different owners in their separate interest. In such a case. the object of the management could not be described as common. In the result, the document under consideration must be held to provide for 14 distinct acts of authorisation or matters. **AIR 1956 Nag 150 (151, 152) (SB).**

(7) When a person possesses both personal capacity and a representative capacity such as trustee, and there is a delegation of power by him in both these capacities, the position in law is exactly the same as if different persons join in executing a power in respect of matters which are unrelated. There being no community of interest between the personal estate belonging to the executant and the trust estate vested in him, they must be held to be distinct matters for purposes of Section 5. **AIR 1956 SC 35 (41) = (1955) 2 SCR 842. (AIR 1952 Cal 815 (SB), Reversed.)**

(8) Board of Revenue in reference under Section 56 (2) adjudicating under Article 48 (c) upon nature of document about which there was dispute between the petitioner and the registering authority without giving hearing to petitioner — Board was under duty to refer the case to the High Court under S. 57 (1) — High Court could by issue of writ of mandamus order the Board to direct a reference. AIR 1966 Mad 36 (37 to 39) = .(1965) 1 MLJ 431.

(9) Bank giving loan to Company on security of immovable properties — Company subsequently giving power of attorney to Bank to sell properties and obtain repayment of loan — Power of attorney held was for consideration and fell under Article 48 (e). AIR 1968 Mad 50 (52) = (1967) 2 Mad LJ 515.

5. Power-of-attorney executed outside British India.— (1) If a power-of-attorney is intended to operate in England as well as in British India, it would not be invalid, so far as it was intended to operate in British India, because the requirements of the Stamp Laws in England had not been fulfilled. It would be sufficient if it complied with the requirements of this Act. (1896) 23 Cal 187 (188).

(2) A general power-of-attorney executed on a five rupee stamp paper of the Mysore State cannot be accepted as duly stamped within the meaning of Section 2 (11) unless it is stamped with an impressed label of the value of Rs. 5. (1933) Mad SM p. 139 (139).

Article 49 — Note 1

(1) A promissory note payable on a specified date or after a specified period or within a certain time is one payable otherwise than on demand. (1867) 3 Bom HCR (OC) 9 (11, 12) ** AIR 1955 Trav-Co 65 (Pr 4) (DB) ** (1882) 8 Cal 645 (648) (DB) ** AIR 1935 Mad 23 (24) = 58 Mad 261 (DB) ** AIR 1934 Pesh 1 (1) (DB) ** AIR 1945 Mad 42 (42) ** AIR 1971 Mad 290 (292) = (1971) 1 Mad LJ 214 (DB). (A promissory note, though it may be one as defined in the Negotiable Instruments Act, if it is not payable on demand, will fall under Clause (b) of Article 49 of the Stamp Act though under the definition in Section 2 (22) it will fall under the first part thereof.) ** AIR 1971 Pat 378 (380) = 1970 BLJR 1243 (DB).

(2) Accounts settled and khata executed on separate piece of paper — Two payees having no joint transaction — Addition of entry on debit side — Document held not to be a promissory note but agreement. 1961 Raj LW 569 (572).

(3) A promissory note payable on demand is payable without any demand and the true import of the words "on demand" is that the

(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000;	‡[Fifteen naye paise].
(iii) in any other case . . .	‡[Twenty-five naye paise].
(b) when payable otherwise than on demand..... ..	The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.]

[1879—Art. 11; 1869—Sch. I, Art. 2 and Sch. II, Art. 1; 1862—Sch. A, Arts. 10, 57; 1860—Sch. A, Arts. 4, 5, 45.]

[*] Substituted for the original article by the Indian Stamp (Amendment) Act, 1923 (XLIII of 1923), S. 2.

[†] For validation of certain promissory notes executed after the 30th day of September, 1923, and before the 5th day of January, 1925, see the Promissory Notes (Stamp) Act, 1926 (XI of 1926), S. 2.

[‡] Substituted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), S. 13 (1-10-1958).

50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note*.	One rupee.

[1879—Art. 45; 1869—Sch. II, Art. 24; 1862—Sch. A, Art. 58; 1860—Sch. A, Art. 46.]

[*] See the Notaries Act, 1952 (LIII of 1952), S. 8 (c). For the meaning of "protest", see the Negotiable Instruments Act, 1881 (XXVI of 1881), S. 100.

51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. **See** also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	One rupee.

[1879—Art. 45; 1869—Sch. II, Art. 25; 1862—Sch. A, Art. 59; 1860—Sch. A, Art. 46.]

Sch. I Article 49 — Note 1 (contd.)

debt is due and payable immediately. AIR 1955 Trav-Co 65 (Pr 4) (DB).

(4) A promissory note payable on demand with a collateral agreement to give time for payment is a promissory note payable on demand. (1870) 5 Beng LR 103 (105) (DB). (Promissory-note made payable to order or bearer is not a 'bond.') ** AIR 1967 Raj 235 (236) = 1967 Raj LW 466.

(5) It is only the amount of duty and not the manner in which it should be paid that is the same as on a bill of exchange. AIR 1934 Pesh 1 (1) (DB).

(6) Article 37 read with Article 9 of the Hyderabad Stamp Act as amended by Regulation 15 of 1357F, did not provide for stamp duty on promissory note payable on demand. Such a promissory note to which the Act as amended applied did not require to be stamped. AIR 1953 Hyd 297 (Pr 4).

(7) Adhesive stamp is permitted in respect of an instrument to be stamped in accordance with Article 49 (a) (iii) in schedule 1 to the Stamp Act. AIR 1973 Madh Pra 3 = 1972 MPLJ 616 (DB).

(8) Promissory note payable on demand, of value exceeding Rs. 250 requiring stamp of 25 paise, stamped with four adhesive stamps of 10 paise each — Admissible in evidence — Rajasthan Stamp Rules, R. 14 — Rajasthan Court Fees and Suits Valuation Rules (1961), Rr. 13 and 14. AIR 1965 Raj 114 (114, 115) = 1965 Raj LW 31.

(9) Insufficiently stamped promissory-note — Collector making necessary endorsement and validating it erroneously — Such promissory-note is admissible in evidence — Suit on such promissory-note is maintainable. 1967 MPLJ (Notes) 105.

[But see AIR 1967 Guj 7 (10) = (1965) 6 Guj LR 8. (Instrument expressed as a promissory note — Not properly stamped as required by Article 49 of Stamp Act — Not admissible in evidence.)]

Article 51 — Note 1

(1) As to the definition of "Master of a ship" see, the General Clauses Act, Sec. 3 (32).

52. PROXY, empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or, (c) proprietors, members or contributors to the funds of any institution.	*[Fifteen naye paise.]

[1879—Art. 51; 1869—Sch. II, Art. 8.]

[*] Substituted by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), S. 13 (1-10-1958) for "Two annas" which itself was substituted for "One anna" ibid, 1923 (XLIII of 1923), S. 2.

53. RECEIPT [as defined by section 2 (23)] for any money or other property the amount or value of which exceeds twenty rupees.	*[Ten naye paise].

Article 52 — Note 1

(1) Proxy is expressly excluded from the operation of Article 48.

(2) A proxy should be stamped at the time of execution and if it is so stamped, its operative parts may be filled in afterwards by any person duly authorised. (1907) 1 Ch 318 (322) = 76 LJ Ch 184 ** 1897-1 Ch 1 (3) = 66 LJ Ch 17.

(3) The proxies which are unstamped or upon which the stamps have not been cancelled must be rejected. AIR 1928 Bom 80 (89).

ARTICLE 53 — SYNOPSIS

1. Receipt — Stamp duty payable.
2. Exemption (a).
3. Exemption (b).
4. Receipt for counsel's fee.
5. Exemption (c).
6. Exemption (h).
7. Remissions.

1. Receipt — Stamp duty payable.— (1) Where a document merely refers to a sale as completed transaction and the primary object is to record the receipt of part of the purchase price, the document is a receipt and not a conveyance. **AIR 1932 Lah 535 (536) (SB)** ** AIR 1952 Ajmer 46 (2) (Prs 6, 7).

(2) Where a number of bills each under Rs. 20 is paid at one time to a single person, but a single consolidated receipt is given for an aggregate sum exceeding Rs. 20 the receipt should be stamped under this article. (1931) Beng SM Vol I, p. 80 (Citing Board's file 87 of 1908).

(3) Where a receipt is granted in duplicate the duplicate must also bear a stamp of one anna under this article read with Art. 25. (1934) Pun SM Part I-B Ch. 3, p. 33.

(4) Receipt in respect of salary of a Government servant, if the gross salary exceeds twenty rupees is chargeable under Art. 53. **AIR 1949 Lah 183 (186) = Pak LR (1948) Lah 173 (SB).**

2. Exemption (a). —(1) A receipt for more than Rs. 20 contained in a memorandum of sale is not exempt from duty although such memorandum of sale is itself exempt under Art. 5. AIR 1934 All 201 (203) (DB).

(2) An endorsement on a duly stamped mortgage-deed acknowledging the receipt of the sum thereby secured, is exempt from duty. (1887) 10 Mad 64 (66) (DB).

(3) Receipts for amount over twenty rupees endorsed on income-tax and super-tax refund orders are exempt from stamp duty. (1933) Mad SM p. 147.

(4) A receipt endorsed on the back of decree acknowledging the receipt of money due under the decree is liable to duty. (1933) Mad SM p. 146. (Citing BP 113, 18th February 1891.)

(5) An endorsement of receipt written on a blank sheet of paper annexed to a document which has no blank space left for writing such endorsement, may be read in evidence without a stamp where the main document is exempted. (1815) 171 ER 107 (107) = 4 Camp 336.

(6) A receipt endorsed on the back of a stamped instrument and covered by this exemption may be separately admitted in evidence though it be a part of an endorsement which otherwise is required to be stamped. (1835) 174 ER 178 (178) = 1 Mood & Rab 517.

3. Exemption (b).— (1) Where stolen property is returned to the owner of the property in pursuance of an order of a criminal Court, a receipt given by the owner is exempt from duty. AIR 1924 All 578 (578).

(2) A document executed by a servant in favour of his co-servant by way of a voucher to show that he had received a sum of money from him for paying it to a creditor of the employer according to the employer's instructions is not chargeable with duty. AIR 1917 Oudh 151 (152) ** (1910) 37 Cal 634 (640, 641).

(3) Receipts granted by Presidents of District Boards for amounts transferred from Provincial Local Funds by adjustments in the Collectors' books of account are exempt from duty. 1911-2 Mad WN 293 (294).

(4) A receipt for money granted by the secretary of a club to a member making payment for articles received from the club or in satisfaction of any other dues to the club is not exempt. **(1887) 10 Mad 85 (86) (SB).**

4. Receipt for counsel's fee.— (1) It was held in the undermentioned cases that a receipt given by an advocate or a barrister

Exemptions

Receipt—

(a) endorsed on or contained in any instrument duly stamped †[or any instrument exempted] under the proviso to section 3 (instruments executed on behalf of the Government) ‡[or any cheque or bill of exchange payable on demand] acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity, or other periodical payment thereby secured;

(b) for any payment of money without consideration;

(c) for any payment of rent by a cultivator on account of land assessed to Government revenue, or §[in the States of Madras, Bombay and Andhra] *†[as they existed immediately before the 1st November, 1956] of inam lands;

(d) for pay or allowances by non-commissioned *‡[or petty] officers, *§[soldiers, *‡[sailors] or airmen] of ‡‡[†§[the indian] military, *‡[naval] or air forces], when serving in such capacity, or by mounted police-constables;

(e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned *‡[or petty] officer, *§[soldier, *‡[sailor] or airman] of ‡§[any of the said forces], and serving in such capacity;

(f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as

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Sch. I Art. 53 — Note 4 (contd.)

in respect of his fees was exempt from stamp duty under Exemption (b) of this article as being one in respect of a payment made without any consideration. However, under Section 3 of the Legal Practitioners' Fees Act (21 (XXI) of 1926), every legal practitioner is entitled to enter into an agreement with his client in respect of his fees for professional services. (1881) 3 Mad 138 (140) ** **(1886) 9 Mad 140 (141) (SB) ** (1894) 16 All 132 (133) (SB)** ** (1897) 10 CPLR (Cri) 11 (12) ** **1897 Pun Re (Cri) No. 15, p. 36 (38, 39) (FB).**

(2) An English Advocate who has enrolled himself as an advocate of a High Court can sue for his fees for the professional services rendered by him. **AIR 1933 All 417 (424) (FB)** (25 All 509, **Overruled.**) ** **(1908) 4 Low Bur Rul 55 (64) (FB).**

5. Exemption (c).— (1) This exemption includes all receipts given not only by Government to cultivators but also by the holders of revenue paying lands to their own raiyats. (1940) Bihar SM p. 174.

(2) A receipt for payment out of Court of money due under a decree for rent of an agricultural holding is not exempt. (1909) 31 All 36 (37).

(3) Receipts granted by a zamindar to the inamdars under him for Kattubadi and land cess are exempt only when the inamdars are cultivators. (1933) Mad SM p. 145.

(4) Receipts for payment of zamindari rents are exempt from stamp duty. (1933) Mad SM p. 145.

6. Exemption (h).— (1) Exemption (h) does not apply to receipts given in acknowledgment of loans. (1933) Mad SM p. 146.

(2) Where the salary of an officer is paid into a bank as his agent, the receipt granted by the bank is sufficient and no additional stamped receipt is necessary from the officer concerned. (1931) Beng SM, Vol 1, p. 89 ** (1904) Bihar SM, p. 173.

(3) Where the money is not received by a person as the banker of the payer, the exemption will not apply. 1885 All WN 266 (267).

(4) A bank memorandum informing its customer that money has been paid to his credit by a third person is not a receipt. **(1879) 4 Cal 829 (831) (SB).**

7. Remissions.— (1) Receipts for advances exceeding Rs. 20 made by Government under the Agriculturists' Loans Act (12 (XII) of 1884) are exempt from duty. (1933) Mad SM, p. 146.

(2) Receipts endorsed by the payee on a postal money order are exempt from duty. Such a receipt is a sufficient legal acquittance and no further receipt is necessary. (1912) 34 All 192 (196) (DB) ** (1940) Bihar SM p. 173.

such non-commissioned °‡[or petty] officers, °§[soldiers, °‡[sailors] or airmen], and not serving the Government in any other capacity;

(g) given by a headman or lambardar for land-revenue or taxes collected by him;

(h) given for money or securities for money deposited in the hands of any banker, to be accounted for;

Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:

Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.

‡‡[See also POLICY OF INSURANCE [No. 47-B (2).]

[1879—Art. 52; 1869—Sch. II, Art. 7; 1862—Sch. A, Art. 61; 1860—Sch. A, Art. 47.]

[°] Substituted for "One anna" by the Indian Stamp (Amendment) Act, 1958 (XIX of 1958), S. 13 (1-10-1958).

[†] Substituted for "or exempted" by the Repealing and Amending Act, 1928 (XVIII of 1928), S. 2 and Sch. I.

[‡] Inserted, ibid.

[§] Substituted for the words "in the Presidencies of Fort St. George and Bombay" by An. A.L.O., 1954 (w. r. e. f. 1-10-1953).

[*†] Inserted by 2 A.L.O., 1956.

[*‡] Inserted by the Amending Act, 1934 (XXXV of 1934), S. 2 and Sch.

[*§] Substituted for "or soldiers" by the Repealing and Amending Act, 1927 (X of 1927), S. 2 and Sch. I.

[†‡] Substituted for the words "Her Majesty's Army or Her Majesty's Indian Army", ibid.

[†§] Substituted for "His Majesty's" by A.L.O., 1950.

[‡§] Substituted for the words "either of the said Armies", ibid.

[‡‡] Added by the Indian Stamp (Amendment) Act, 1906 (V of 1906), S. 7.

54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.
(b) in any other case . . .	Ten rupees.

[1879—Art. 53; 1869—Sch. II, Art. 27; 1862—Sch. A, Art. 51; 1860—Sch. A, Art. 37.]

Article 54 — Note 1

(1) The duty in the case of the following instruments has been remitted: (a) Instrument of reconveyance of mortgaged property executed by Government in favour of any person who is or has been in employ of Government on the repayment of an advance received from the Government for constructing, purchasing or repairing a dwelling house for his own use. (1933) Mad SM p. 240

** (1934) Pun SM. Part 1-B, Chapter 1. p 6 (b). (Instrument of reconveyance executed by Government in respect of property mortgaged by an officer of Government or his surety for the due execution of an office or the due accounting for money or other property received by virtue thereof.) ** (1933) Mad SM, p. 240.

55. RELEASE, that is to say, any instrument *[(not being such a release as is provided for by section 23-A)] whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(b) in any other case. . . .	Five rupees.

[1879—Art. 54; 1869—Sch. II, Art. 30; 1862—Sch. A, Arts. 52, 62; 1860—Sch. A, Art. 38.]

[*] Inserted by the Indian Stamp (Amendment) Act, 1904 (XV of 1904), S. 8.

Article 55 — Note 1

(1) The article predicates the existence of a claim against some person or specified property, which claim the person executing the document, renounces by a deed. AIR 1943 Oudh 169 (172) ** AIR 1957 Raj 125 (126) (DB) ** (1911) 7 Nag LR 36 (36) ** AIR 1923 Nag 284 (285).

(2) A document by which a certified purchaser of property sold in execution of a decree, relinquished in favour of the real purchaser any claims which he might have or might be supposed to have against the property was held chargeable under this article. **(1902) 24 All 372 (374) (SB).**

(3) A document by which a colliery company gave up "all claims which but for these presents we might have maintained..... against the railway company in respect of the said coal" was held to amount to a release. 1899-2 QB 652 (660, 663).

(4) An agreement to release property which may descend to the executant as an heir would not be a release. (1911) 7 Nag LR 36 (36).

(5) It is not necessary that the word 'release' should be used in an instrument of release. (1899) 2 QB 652 (663). (The words may be "renounce", "remit claim" or "make quit".) ** (1911) 7 Nag LR 36 (36). (Kabuliatnama recognizing validity of partition held release.)

(6) A document will not be an instrument of release merely because it is styled as a release. **(1908) 32 Bom 505 (508) (FB). (Held** instrument of partition.) ** AIR 1943 Oudh 169 (172). (Do.)

(7) Where the release relates to five distinct items of property acquired at different points of time the matter comes within the purview of Sec. 5 of the Act and it should be stamped under Article 55 (b). 1958 BLJR 674 (675) (DB).

(8) Deed of surrender by Hindu widow does not in law or in fact purport to transfer any property and it need not be in any particular form — Where it is not in the form of a deed of gift but is in the form of relinquishment it does not come under Article 33 and need be stamped and attested as such. AIR 1948 Cal 84 (94).

(9) A Hindu widow having under a decree rights in the property of her husband similar to those of a Hindu widow, and desiring to surrender her interest to her sons, executed a deed whereby she transferred possession of the property to the sons. It was held that the deed was not release but a gift. **AIR 1938 Pat 33 (34) (SB).**

[But see AIR 1947 All 104 (104) (DB).]

(10) A Hindu widow executed a deed of relinquishment in favour of the reversioners, It was held that Article 23 applied. AIR 1943 Oudh 169 (172).

(11) The fact that a deed of surrender by a Hindu widow is not stamped and is therefore not admissible in evidence does not preclude other evidence of the surrender. AIR 1927 Cal 806 (808).

(12) An instrument evidencing a relinquishment of his claim by a Hindu reversioner is an instrument of release. **(1909) 33 Bom 657 (658) (FB).**

(13) Where a deed of partition executed by sons and attested by their mother recited the fact of surrender of certain properties by their mother as a past transaction, it was held that even assuming that the deed operated as a surrender it was not leviable with duty under Art. 33 in addition to that for a partition deed. **AIR 1952 Pat 32 (Pr. 5) (SB).**

(14) An endorsement on a mortgage-deed acknowledging the receipt of the mortgage-money does not amount to a release. **(1887) 10 Mad 64 (66) (SB).**

(15) Where an endorsement on a mortgage-deed contained the additional words "the claim on the mortgage is relinquished" it was ruled that the endorsement required stamp under this article. (1933) Mad SM p. 152.

(16) An instrument by which trust property is transferred by trustee to the cestui que trust in pursuance of the trust-deed is not an instrument of release. **(1884) 7 Mad 350 (351) (SB).**

(17) The document proceeded on the footing that the five persons, namely the three executants and the two persons in whose favour the instrument was executed, who were carrying on business of a firm owned the property as co-owners, the executants being entitled to a three-fifths share and the other two being entitled to the remaining two-fifths share. The document recited that in consideration of certain amount the executants released, extinguished, abandoned, cancelled and relinquished their rights claims, etc. in respect of the property, interest, etc. There was no division of the property by metes and bounds and in accordance with the said shares. It was held, that the document was not a deed of dissolution of partnership, it was a release deed falling under this article. **AIR 1955 Mad 641 (642) (FB).**

(18) Release — What amounts to — Person by a document voluntarily renunciating for consideration coparcenary rights of succession to impartible estate — Article 55 is attracted. (1961) 1 Andh WR 183 (186) (DB).

56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.

[1879—Art. 55; 1869—Sch. I, Art. 7; 1862—Sch. A, Art. 14; 1860—Sch. A, Art. 9.]

REVOCATION OF ANY TRUST OR SETTLEMENT. See SETTLEMENT (No. 58), TRUST (No. 64).	
57. SECURITY-BOND OR MORTGAGE DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,— (a) when the amount secured does not exceed Rs. 1,000; (b) in any other case. . . .	The same duty as a Bond (No. 15) for the amount secured. Five rupees.

Sch. I Article 55 — Note 1 (contd.)

(19) Characteristics — No transfer of interest or right to another who had no pre-existing right — Release in favour of person having such right — His right or claim enlarged or is made fuller in its content. AIR 1970 Mad 348 (349) = (1970) 2 Mad LJ 326.

(20) Conveyance by person having right in favour of another having limited right can be termed release deed. AIR 1970 Mys 270 (276) = (1970) 1 Mys LJ 489.

(21) Property owned by two co-owners — One of them effacing himself in respect of his title and right to possession in favour of other — Document is release and not conveyance. AIR 1968 Mad 159 (160) = (1968) 1 Mad LJ 165.

(22) Deed executed by a son in joint family relinquishing his share to family property for agreed sum — Cash assets intended to be given from common family property — Document is instrument of partition — Requires stamp duty under Article 43. **AIR 1964 Mys 124 (SB).**

(23) Mother by deed giving up her life interest in property in favour of her son and grandson — Mother to be paid certain amount monthly — Amount to be charged on some other property — **Held,** deed operated only as release and not as conveyance — That release was for consideration did not make any difference. AIR 1970 Mad 348 (349) = (1970) 2 Mad LJ 326.

(24) An instrument by a vendor giving up the right of reconveyance by the vendee in his favour is a "release" falling under Article 55 of Schedule I, of the Stamp Act. It is not a "conveyance" falling under Art. 23 or a "deed of cancellation" falling under Article 17. **AIR 1970 Mad 1 (2) = (1969) MLJ 93 (SB).**

(25) A document being inadmissible both on ground that a certified copy is not admissible unless the original is proved to have been lost or destroyed or is otherwise not available and also on the ground that the original being unstamped, secondary evidence thereof is inadmissible even on payment of penalty. (1968) 2 Andh LT 212 (219).

Article 56 — Note 1

(1) A shipped pottery in vessel belonging to B. On the security of the pottery, A borrowed from B and executed a document on one rupee hundi impressed sheet acknowledging receipt and agreeing to pay with interest at 5 per cent. within 21 days after the vessel reached the port. It was held that the document was respondentia bond. (1933) Mad S M p. 153.

ARTICLE 57 — SYNOPSIS

1. Scope.
2. This Article and Article 40.
3. "To secure the due performance of a contract."
4. "In any other case."
5. Security-bond or mortgage-deed executed in pursuance of order of Court.
6. Exemption (e).
7. Assignment of a security-bond.

1. Scope.— (1) Words "executed by way of security . . . . contract" govern the words "security-bond" as well as "mortgage-deed". ILR (1937) 1 Cal 375 (378) (DB).

(2) In cases of security for the due performance of an office and security for the due accounting of money or other property received by virtue of an office the instrument may be executed either by the principal or the surety. **AIR 1942 Oudh 371 (373) (SB).** (Security-bond executed by person for due performance of his own contract is not within this article.) ** AIR 1935 Cal 610 (611) (DB).

2. This Article and Article 40.— (1) In order to attract the operation of this article and exclude that of Article 40, a mortgage deed must have been executed by way of security for any of the purposes mentioned in the article. **AIR 1942 Oudh 371 (372) (SB)** ** (1904) 27 Mad 71 (74) (DB).

(2) By deed of mortgage mortgagor and surety for him jointly and severally covenanted to repay mortgage debt — Duty paid under Article 40 held sufficient and no

Description of instrument	Proper stamp
Exemptions	
Bond or other instrument when executed— (a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act; (b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;: (c) under No. 3-A of the rules made by the State Government under sec. 70 of the Bombay Irrigation Act, 1879. (d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (e) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof. [1879—Art. 14; 1869—Sch. I, Art. 12; 1862—Sch. A, Art. 18; 1860—Sch. A, Art. 13.]	

Sch. I Article 57 — Note 2 (contd.)

additional duty under this Article held payable. **(1910) 5 Ind Cas 812 (813) = 1910 Pun Re No. 15 (SB).**

(3) In contract for work out of payments made to contractor from time to time, executive engineer to retain 10 per cent. on value of work to cover compensation for default and as security for proper performance of contract — Instrument held not deed of mortgage but only agreement. **(1884) 7 Mad 209 (210) (SB).**

(4) Agreement between Government and a salt contractor who had deposited Government promissory notes of certain amount as security for due performance of his contract — Notes to be returned on performance of contract — Deed held governed by Article 40 of Act, 1879. **(1888) 11 Mad 39 (40) (SB).**

(5) Security bond by guardian appointed under Guardians and Wards Act for due performance of his office falls under Article 46 of Schedule 1-A (Mad). (Corresponding to this article) and not under Article 33 of Schedule 1-A (Mad). (Corresponding to Article 40). **AIR 1949 Mad 567 (568) (FB).**

(6) Security bond in favour of Commissioner of Income-tax for discharge of Income-tax liability — **Held,** Article 57 and not Article 40 applied. **AIR 1966 Punj 293 (296) = ILR (1966) 2 Punj 104 (FB).**

(7) Hypothecation bond executed by Directors on behalf of company — **Held,** Article 40 (b) and not Article 57 applied. AIR 1964 All 519 (520) (DB).

3. "To secure the due performance of a contract."— (1) It is necessary to attract the applicability of this article, that the person principally bound to perform the contract must be different from the person executing the instrument of security. **AIR 1931 All 189 (190) (SB)** ** (1933) Mad S M p. 122 ** **AIR 1942 Oudh 371 (374) (SB).**

(2) Word "contractor" in this article has been used in the sense defined in Clause (h) of Section 2, Contract Act. **AIR 1931 All 189 (191) (SB)** ** ILR (1937) Cal 375 (380) (DB) ** **AIR 1938 Mad 262 (263) (FB).**

4. "In any other case"— (1) Expression "In any other case" will include cases where the amount secured exceeds Rs. 1,000 as well as those in which the amount secured is not a fixed sum. AIR 1924 Nag 408 (409).

(2) A mortgage-deed executed by a cashier in favour of company employing him as security for the due execution of his duties as a cashier and for the repayment of any amount to the extent of Rs. 6,000 coming to his hands, as a cashier for which he might be found liable was held liable only to a fixed duty under this clause. (1904) 27 Mad 71 (74) (DB).

5. Security-bond or mortgage-deed executed in pursuance of order of Court.— (1) Bond not falling within special provision — It will not be liable to stamp duty under residuary Article 15, as such article expressly excludes bonds provided for by the Court-fees Act. **AIR 1925 Cal 906 (907) (FB)** ** AIR 1947 Nag 26 (31).

(2) In pursuance of order of Court under Section 55 (4). Civil P. C. surety executed personal bond without hypothecating any property for producing judgment-debtor in Court whenever required and for his filing petition in insolvency — Article held did not apply and bond held governed prima facie by Article 15. **AIR 1933 Lah 89 (90) (SB).**

(3) Security-bond given by a guardian under Order 32, Rule 6 (2), Civil P. C. is a bond chargeable with stamp duty under this article in addition to the court-fee stamp under Article 6 Schedule II, Court-fees Act, 1870. AIR 1929 Lah 205 (205).

(4) Security-bond given by a rceiver under Order 40, Rule 3, Civil P. C. whereby he binds himself and his property for the due performance of his duties as a receiver is governed by this article. AIR 1935 Cal 610 (611) (DB).

58. SETTLEMENT—	
A.—INSTRUMENT OF (including a deed of dower) . . .	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.

Sch. I Article 57 — Note 5 (contd.)

(5) Security-bond executed by surety in pursuance of order of Court under Order 41, Rule 5 or Rule 6, Civil P. C. hypothecating his property — This article applied and not Article 40. **AIR 1931 Oudh 99 (102) (SB)** ** **AIR 1928 Oudh 143 (144) (FB)** ** AIR 1936 Sind 41 (42) = 30 Sind LR 1 (DB) ** AIR 1933 Lah 1004 (1005).

[But see AIR 1953 Pat 210 (Pr 3) ** **AIR 1931 All 189 (192) (SB)** ** ILR (1937) 1 Cal 375 (380) (DB) ** **AIR 1938 Mad 262 (263) (FB)** ** **AIR 1942 Oudh 371 (373) (SB).**]

Note: With a view to remove the above conflict of decisions this article has been amended in Bengal, U. P. and Sind so as to bring a bond for "the due discharge of liability" within its ambit.

(6) Security-bond under Order 41, Rule 5. Civil P. C. hypothecating immovable property neither falls under this article nor under Article 40 but is governed by Art. 15 and also Schedule II, Article 6 of the Court-fees Act. But as Article 15 expressly excludes bonds falling under the Court-fees Act such bond is leviable only with court-fee under Schedule II, Article 6. AIR 1947 Nag 26 (31).

(7) Judgment-debtor, in pursuance of order of Court on his application for stay of execution, executing security-bond undertaking only personal obligation — Bond is not one coming under this article or Article 40 and comes under Article 15 but no duty under this Act is payable on it. AIR 1934 Lah 228 (229) (DB) ** AIR 1929 Lah 205 (205) ** AIR 1947 Nag 26 (31).

(8) Security-bond given in accordance with rules framed under Civil P. C. for production of attached property before Court — Bond held not chargeable with any stamp duty under this Act. AIR 1923 Cal 269 (269) (DB) ** **AIR 1914 Mad 652 (653) (SB).**

[But see AIR 1935 All 558 (558) (DB).]

(9) Security-bond for production of attached property given under Section 53, Madras Village Courts Act, 1889, has been held to fall within this article. **AIR 1927 Mad 377 (377) (FB).**

(10) Security-bond given by a guardian of a minor's estate in accordance with the order of the Court under the Guardians and Wards Act was held to be chargeable with a duty under this article only and not with any court-fee stamp under Art. 6 Sch. II, Court-fees Act. **AIR 1940 Bom 275 (275) (SB)** ** **AIR 1949 Mad 567 (568) (FB).**

(11) Security-bond executed by an insolvent with one surety in pursuance of the order of the Court under Section 21, Provincial Insolvency Act, 1920, without hypothecation of any property for securing the due appearance of the insolvent in Court has been held to be chargeable under this article. **AIR 1936 Lah 45 (46) (SB).**

[But see **AIR 1938 Mad 262 (263)** = **ILR (1938) Mad 460 (FB).**]

6. Exemption (e).— (1) Security-bond executed by supurdar acknowledged to have received certain movable property attached by amin in execution of simple money decree and contained agreement on his part to produce same whenever demanded by Court — Court at liberty to realise price of property from supurdar's person and property — Deed held was exempted from stamp duty under this clause. AIR 1935 All 558 (558) (DB).

7. Assignment of a security-bond.— (1) Court obtaining under Order 32, Rule 6, Civil P. C. security-bond from guardian of minor in connection with withdrawal of minor's moneys by guardian from deposit in Court — Assignment in favour of minor on his attaining majority, of such security-bond for being enforced by him may be effected by mere order of Court and does not require any stamped or registered instrument. **AIR 1931 All 389 (391) (FB).**

Article 58 — Note 1

(1) A settlement partially executed in British India is liable to duty under this article, although it is intended to have effect in England where it is to be partially executed and is liable to duty under English law. **1883 Bom PJ 364 (SB).**

(2) The expression "as set forth in such settlement" does not refer to the property settled, but to the value of the property settled. **(1885) 8 Mad 453 (454, 455) (SB)** ** **AIR 1922 All 82 (83) (FB)** ** **1883 Bom PJ 364 (SB).**

(3) The duty is to be paid on the amount or value of the property settled, as stated in the document itself. **AIR 1959 Mad 738 (739) (FB).** (AIR 1935 Rang 243, Relied on.) ** AIR 1960 Pat 210 (211).

[See also AIR 1953 Mad 941 (Prs 6, 7) = 1953 Cri LJ 1756.)]

(4) Where two sums contained in two schedules were settled by a deed which also recited a previous declaration of trust in respect of two other sums which were contained in two other schedules to the deed, it was held that the duty was chargeable on the total amount of the securities contained in all the four schedules. (1933) 102 LJKB 696 (702) = (1933) 2 KB 126.

(5) Where a settlement is completed by two or more instruments one of which bears a proper stamp prescribed by this article.

Exemptions (a) Deed of dower executed on the occasion of a marriage between Muhammadans. *[* * * * *] B.—REVOCATION OF . . .	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.

See also TRUST (No. 64).

[1879—Art. 57; 1869—Sch. I, Art. 14; 1862—Sch. A, Art. 64; 1860—Sch. A, Art. 49.]

[*] Exemption (b) was omitted by A. O., 1937.

59. SHARE WARRANTS to bearer issued under the *Indian Companies Act, 1882. Exemption Share warrant when issued by a Company in pursuance of the *Indian Companies Act, 1882, section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue, of— (a) ‡[one and a half] per centum of the whole subscribed capital of the company, or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—‡[one and a half] per centum of the additional capital so issued.	†[One and a half times] the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.

[*] Now see the Companies Act, 1956 (I of 1956).

[†] Substituted for "Three-quarters of" by the Indian Stamp (Amendment) Act, 1910 (VI of 1910), S. 3.

[‡] Substituted for "three-quarters", ibid.

SCRIP. See CERTIFICATE (No. 19). 60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.

[1879—Art. 58; 1869—Sch. II, Art. 6; 1862—Sch. A, Art. 65.]

Sch. I Article 58 — Note 1 (contd.)
each of the other instruments requires only a stamp of one rupee under Section 4. **AIR 1915 All 198 (199) (FB) ** AIR 1915 All 81 (82) (FB).**

(6) A kabin nama. pure and simple, is a deed of dower executed in favour of the wife in a Muhammadan marriage, It does not, therefore, require any stamp duty. AIR 1935 Lah 122 (123).

(7) Where a deed of dower executed in favour of a Muhammadan wife at the time of marriage contains a hypothecation of certain property to secure the payment of the dower money, it is liable to duty as mortgage-deed though exempt as a deed of dower. 1900 All WN 23 (24) (DB).

(8) A deed of dower executed a week before marriage would not be entitled to the exemption mentioned in the exemption. AIR 1959 Bom 108 (109).

(9) Document in respect of lands styled as dakhal — Document executed partly due to love and affection towards vendees and partly for expenses incurred by vendees in respect of their archakatwam service and paditharamulu — Document is only partly sale deed and partly settlement deed. 1970 Cri LJ 276 (280) (Andh Pra).

(10) Document held not to be declaration of trust with regard to debts and cash — Instrument held chargeable with duty under Article 58 on value of property settled — Duty held to be same as that on bond under Article 15. 1964 Raj LW 33 (34).

(11) For the purpose of stamp duty the valuation of the property stated in the deed has to be accepted, but this does not prevent the Collector from holding an enquiry to consider prosecution of the executant under Section 64. 1950 Nag LJ 658.

61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed five rupees;	The duty with which such lease is chargeable.
(b) in any other case . . .	Five rupees.
Exemption	
Surrender of lease, when such lease is exempted from duty.	

[1879—Art. 59; 1869—Sch. I, Art. 20.]

62. TRANSFER (whether with or without consideration)—	
*[(a) of shares in an incorporated company or other body corporate;	†[Seventy-five naye paise] for every hundred rupees or part thereof of the value of the share.]
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	‡[One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.

Article 61 — Note 1

(1) The stamp duty under this article is not to be assessed with reference only to the unexpired portion of the lease. (1933) Mad SM p. 158. (Citing B. P. 2791.)

(2) The fact that only a portion of the property leased is comprised in the surrender does not affect the stamp duty chargeable. (1933) Mad SM p. 158. (Citing B. P. 374 R.)

ARTICLE 62 — SYNOPSIS

1. Clause (a).
2. Clause (c).
3. Clause (e).

1. Clause (a).— (1) In pursuance of an oral partition one of the three brothers constituting a joint Hindu family transferred certain shares standing in his name to his two brothers by two deeds: **Held** that the documents were instruments of partition and not transfers. **AIR 1923 Bom 237 (239) (SB).**

(2) Where a deed of transfer of several share certificates is duly stamped, an endorsement of transfer on each of such certificates is not liable to any duty. (1933) Mad SM p. 160, (Citing B, P. 158, 1st February 1881.)

(3) Even if a company does register an instrument of transfer of shares which is not duly stamped. it is not liable for payment of the proper stamp duty under this article. The liability to pay the stamp duty would be on the executant under Section 29 of the Act. **AIR 1955 Bom 79 (Pr 3) (SB).**

(4) The words "value of the shares" cannot be read as "face value of the shares." The value means the price that the shares would fetch at the time of the transfer and so long as there is nothing to indicate that the consideration was not truly stated in the transfer, the one mentioned therein shall be accepted as the consideration that was or is to be paid. (1958) 28 Com Cas 29 (36) (Punj).

(5) The stamp duty chargeable on transfers to Government of shares of the Reserve Bank of India has been remitted: See Notification No. 8, Stamps, 2nd May 1936 of the Government of India Finance Department (Central Revenues).

(6) Ordinarily and as a matter of law in case of transfer of shares of a company it is the transferor who is liable for stamp duty. When the transfer is in favour of Government it cannot be said that Government is liable to pay stamp duty simply because an instrument of transfer of shares is to be executed both by the transferor and the transferee. AIR 1961 Punj 123 (124, 125) (DB).

(7) Transfer of shares between companies — Exemption from stamp duty — Notification No. 1 of 16-1-1937, of Finance Department, Central Board of Revenue — Construction — Conditions of notification held fulfilled. AIR 1957 Punj 261 (264) (DB).

2. Clause (c).— Bond:— (1) An endorsement of transfer on a money bond is chargeable under this article and not under Article 23, AIR 1934 Oudh 344 (344) (DB).

(2) An endorsement of transfer of a money bond, if unstamped, may be admitted in evidence under Section 35 on payment of duty and penalty. **(1893) 17 Bom 687 (688) (FB).**

(3) Where several bonds are sold in one transaction under a single sale-deed and the aggregate duty chargeable on the bonds, exceeds five rupees the duty payable on such deed is the maximum amount of duty under Art. 62 (c) (ii). **AIR 1933 All 321 (329) (FB).**

[But see (1933) Mad SM p. 160.]

Mortgage-deed

(4) The transfer of an interest secured by a mortgage by deposit of title-deeds is chargeable under this clause where there is an instrument evidencing the agreement relating to the deposit. **ILR (1937) 2 Cal 486 (491, 493) (SB).**

(5) The transaction comprised in a document consisted of a transfer of a mortgage secured on a cotton mill and an agreement that the transferee should lend money at the request of the transferor to the mortgaged mill or making improvements and for working the mill — **Held.** that the document was liable to stamp duty as a transfer of mortgage under Article 62 (c) and as an agreement under Article 5, the total duty being Rs. 5/8. The agreement to lend money was not a bond. **(1909) 33 Bom 426 (429) (SB).**

Transfer of kanom interest

(6) The sale of the improvements to the transferee for a consideration should not be

(c) of any interest secured by a bond, mortgage-deed or policy of insurance,—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees;	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case . .	Five rupees.
(d) of any property under the Administrator General's Act, 1874, section 31;	Ten rupees.
(e) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.
Exemptions	
Transfers by endorsement—	
(a) of a bill of exchange, cheque or promissory note;	
(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;	
(c) of a policy of insurance;	
(d) of securities of the Central Government.	
See also section 8.	
[1879—Art. 60; 1869—Sch. I, Arts. 4, 13; 1862—Sch. A, Arts. 9, 26; 1860—Sch. A, Arts. 3, 19.]	
[*] Substituted for the original clause (a) by the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), S. 7 (w. e. f. 1-4-1956).	
[†] Substituted for "Twelve annas", ibid, 1958 (XIX of 1958), S. 13 (1-10-1958).	
[‡] Substituted for "One-quarter", ibid, 1910 (VI of 1910), S. 3.	
[§] Now see the Administrator's General Act, 1963 (XLV of 1963).	
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption	
Transfer of any lease exempt from duty. [1879—Art. 60A.]	
64. TRUST—	
A.—DECLARATION OF—of, or concerning, any property when made by any writing not being a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.

Sch. I Article 62 — Note 2 (contd.)

liable to additional stamp duty in respect of the improvements. (1933) Mad SM p. 160 (161). (Citing B. P. No. 18, Press 21st February 1941.)

3. Clause (e).— (1) By a deed a certificated purchaser of property at a court-sale purported to relinquish his interest therein in favour of a person alleged to be the real purchaser of the property: **Held** that the document was not a transfer within this clause. **(1902) 24 All 372 (373, 374) (SB).**

(2) A transfer by one co-owener of joint-property in favour of another will not be governed by this clause. **AIR 1923 Bom 237 (239) (SB).**

Article 63 — Note 1

(1) If a lessee for years demises the residue of his term the demise operates as an assignment and not as an underlease. (1868) 17 WR (Eng) 54 (54) = 38 LJCP 91.

(2) The ad valorem duty is only payable on the amount of purchase money. The rent reserved by the lease deed and payable to the lessor by the transferee of the lease should not be taken as part of the consideration. **AIR 1931 Bom 1 (2) (FB) ** (1900) 24 Bom 257 (260) (SB).**

(3) The document whereby a lease was transferred stated that the lease was a losing concern and that the transferor had not received any consideration for the transfer. It was held that the document was liable to the minimum duty on a conveyance, i. e., eight annas. (1933) Mad SM p. 163. (Citing B. P. 137, Mis. 29th January 1918.)

(4) Where a leasehold property, with improvements made on it by the lessee, is transferred and the lease is by law exempt from duty, the transfer of such a lease is exempt from duty and the improvements made to the leasehold property should not be taken into account for purposes of stamp duty. (1933) Mad SM p. 163. (Citing B. P. 1400 R. 9th November 1912.)

Article 64 Note 1

(1) An instrument though couched in the form of a declaration of trust may, in fact.

B.—REVOCATION OF—of, or concerning, any property when made by any instrument other than a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.
See also SETTLEMENT (No. 58). [1879—Arts. 25, 56; 1869—Sch. II, Art. 36.]	
VALUATION. See APPRAISEMENT (No. 8).	
VAKIL. See ENTRY AS A VAKIL (No. 30).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be. [1879—Art. 61; 1869—Sch. II, Art. 10; 1862—Sch. A, Art. 66.]	Four annas.

AJMER

NOTE.— What was known as the Chief Commissioner's Province of Ajmer-Merwara under the Government of India Act, 1935, was specified under the Constitution of India as Part C State of Ajmer. As from the 1st of November 1956, the territory of the said State having been merged under section 10 (1) (b) of the States Reorganisation Act, 1956 in the State of Rajasthan, the said State has ceased to exist as a separate State.

For the applicability of stamp law at present, see under Rajasthan.

ASSAM

SCHEDULE I

Stamp duty on certain Instruments under the Assam Act VI of 1971.

Description of instrument (1)	Proper stamp-duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Twenty-five paise.
2. ADMINISTRATION-BOND including a bond given under section 6 of the Government Savings Banks Act, 1873, or	

Article 64 — Note 1 (contd.)
amount to a mortgage or a conveyance by sale. **AIR 1916 Mad 374 (376) (FB) ** 1899-2 QB 7 (13) = 68 LJ QB 204.**

(2) A document by which a Hindu widow purported to confer all her property on her kinsman, imposing on him the duty of maintaining her from the profits was held to be a deed of gift and not an instrument declaring a trust. **(1889) 12 Mad 89 (89) (SB).**

(3) Owner by deed transferring property to trustees — Trustees to manage same on owner's behalf during his lifetime and to make some arrangement on his death — Deed executed not for distribution of property — Owner reserving power of revocation to himself — Deed held was trust and not settlement. **AIR 1947 All 141 (141, 142) (FB).**

Description of Instrument	Proper Stamp Duty
section 291 or section 375 or section 376 of the Indian Succession Act, 1925.	
(a) Where the amount does not exceed Rs. 1,000;	The same duty as a bond (No. 15) for such amount.
(b) in any other case.	Sixteen rupees fifty paise.
6. ADOPTION-DEED, that is to say, any instrument (other than a will), recording an adoption, or conferring or purporting to confer an authority to adopt.	Thirty-three rupees.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	**Three rupees thirty paise.**
Exemptions.	
Affidavit or declaration in writing when made—	
(a) as a condition of enlistment under the Indian Army Act, 1950;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	**Fifty paise.**
(b) if relating to the sale of a Government security;	Subject to a maximum of forty-four rupees, thirty paise for every Rs. 10,000 or part thereof, of the value of the security.
(c) if relating to the purchase or sale of shares, scrips, stocks, bonds, debentures, debenture stocks or any other marketable security of a like nature in or of any incorporated company or other body corporate—	
(i) when such agreement or memorandum of an agreement is with or through a member or between members of a Stock Exchange recognised under the Securities Contracts (Regulation) Act, 1956;	Twenty paise for every Rs. 2500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
(ii) in other cases;	Forty-five paise for every Rs. 2500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
(d) if executed for service or for performance of work in any estate whether held by one person, or more persons than one as co-owners, and whether in one or more blocks, and situated in Assam, where the advance given under such agreement does not exceed fifty rupees;	**Thirty paise.**
(e) if not otherwise provided for.	**Two rupees twenty paise.**
Exemptions	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 43;	
(b) made in the form of tenders to the Government of India for, or relating to any loan;	
AGREEMENT TO LEASE.—See lease (No. 35).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	

Description of Instrument 1	Proper Stamp Duty 2
(1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or (2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement,—	
if the amount of loan does not exceed Rs. 500;	Two rupees seventy-five paise.
if it exceeds rupees five hundred and does not exceed Rs. 1000;	Five rupees fifty paise.
and for every rupees 1000 or part thereof in excess of Rs. 1000;	Five rupees fifty paise.
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable under sub-cl. (a).
Exemption	
Instruments of pawn or pledge of goods if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER—whether of trustees or of property, movable or immovable, where made by any writing not being a will—	
(a) where the value of the property does not exceed Rs. 1,000;	Twenty-seven rupees fifty paise.
(b) in any other case.	Forty-nine rupees fifty paise.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a Bond (No. 15) for such amount.
(b) in any other case.	Sixteen rupees fifty paise.
Exemptions	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP-DEED including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment.	Sixteen rupees fifty paise.
Exemptions	
Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1961, or by which a person is apprenticed by, or at the charge of, any public charity.	
10. ARTICLES OF ASSOCIATION OF A COMPANY—	
(a) Where the company has no share capital or the normal share capital does not exceed Rs. 2,500.	Forty-one rupees twenty-five paise.

Description of Instrument	Proper Stamp Duty
(b) Where the nominal share capital exceeds Rs. 2,500 but does not exceed Rs. 5,000.	Fifty-five rupees.
(c) Where the nominal share capital exceeds Rs. 5,000 but does not exceed 1,00,000.	Eighty-two rupees fifty paise.
(d) Where the nominal share capital exceeds Rs. 1,00,000.	One hundred and sixty-five rupees.
Exemptions	
Articles of any association not formed for profit and registered under Section 25 of the Companies Act, 1956. See also Memorandum of Association of a Company (No. 39).	
ASSIGNMENT—See Conveyance (No. 23), Transfer (No. 62), and Transfer of lease (No. 63), as the case may be.	
ATTORNEY — See Power-of-attorney (No. 48).	
AUTHORITY TO ADOPT.—See Adoption-deed (No. 3).	
12. AWARD.—That is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit.	The same duty as a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to a maximum of eighty-two rupees fifty paise.
15. BOND (as defined by section 2 (5)), not being a DEBENTURE (No. 27), and not being otherwise provided for by this Act, or by the Court-fees Act, 1870—	
where the amount or value secured does not exceed Rs. 10;	Thirty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Fifty-five paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee ten paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees and seventy-five paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Four rupees and fifteen paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Five rupees and fifty paise.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Seven rupees and forty-five paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees and ninety paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Eleven rupees and fifty-five paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Thirteen rupees and twenty paise.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Fourteen rupees and eighty-five paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Sixteen rupees and fifty paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Eight rupees and twenty-five paise.
See Administration-Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security-Bond (No. 57).	
Exemptions	
Bond, when executed by—	
(a) headman nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	

Description of Instrument 1	Proper Stamp Duty 2
(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for such amount.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for. See also **Release** (No. 55), **Revocation** of **Settlement** (No. 58-B), Surrender of **Lease** (No. 61), **Revocation** of **Trust** (No. 64-B).	Sixteen rupees and fifty paise.
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by a public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—	Sixteen rupees and fifty paise.
(a) where the purchase-money does not exceed Rs. 10;	Forty-five paise.
(b) where the purchase-money exceeds Rs. 10, but does not exceed Rs. 25;	Eighty-five paise.
(c) in any other case	The same duty as a conveyance (No. 23), for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof or any other person either to any share, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. See also Letter of Allotment of Shares (No. 36).	Thirty paise.
20. CHARTERED PARTY, that is to say any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Three rupees and thirty paise.
22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	Thirty-three rupees.
23. CONVEYANCE (as defined by section 2 (10)), not being a Transfer charged or exempted under No. 62— where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	One rupee and thirty paise.

Description of instrument	Proper stamp-duty
where it exceeds Rs. 50 but does not exceed Rs. 100;	Two rupees and fifty paise.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Four rupees and ninety-five paise.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Seven rupees and forty-five paise.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Nine rupees and ninety paise.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Twelve rupees and forty paise.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Fourteen rupees and eighty-five paise.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Seventeen rupees and thirty paise.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Nineteen rupees and eighty paise.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Twenty two rupees and thirty paise.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Twenty-four rupees and seventy-five paise.
for every Rs. 500 or part thereof in excess of Rs. 1,000;	Twelve rupees and forty paise.
*where it exceeds Rs. 50,000 but does not exceed Rs. 90,000;	Thirty-three rupees for every one thousand rupees.
where it exceeds Rs. 90,000 but does not exceed Rs. 1,50,000;	Forty-four rupees for every one thousand rupees.
and where it exceeds Rs. 1,50,000.	Fifty-five rupees for every one thousand rupees:
Provided that where the "instrument" or the conveyance is in respect of an Industrial Loan, certified as such by the Director of Industries, Assam, the stamp duty shall be half of the above rate.	
Exemptions	
Assignment of copyright under the Indian Copyright Act, 1957.	
[*] Substituted by Assam Act VI of 1971, S. 2.	
CO-PARTNERSHIP-DEED — See Partnership (No. 46).	
24. COPY OR EXTRACT, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee;	One rupee and sixty-five paise.
(ii) in any other case not falling within the provisions of section 6-A.	Three rupees and thirty paise.
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument, chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed two rupees;	The same duty as is payable on the original.
(b) in any other case not falling within the provisions of section 6-A.	Three rupees and thirty paise.
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	

Description of instrument	Proper stamp-duty
26. CUSTOMS-BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case.	Twenty-two rupees.
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	Twenty-five paise.
DEPOSIT OF TITLE DEEDS — See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6).	
DISSOLUTION OF PARTNERSHIP—See Partnership (No. 46).	
29. DIVORCE — Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Eleven rupees.
DOWER — Instrument of, see Settlement (No. 58).	
DUPLICATE — See Counterpart (No. 25).	
31. EXCHANGE OF PROPERTY — Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT—See Copy (No. 24).	
32. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article 40 (that is with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT — Instrument of, not being a settlement (No. 58) or will or Transfer (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT or agreement for service, See Agreement (No. 5).	
34. INDEMNITY BOND.	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP DEED, See Composition Deed (No. 22).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let:—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(1) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

Description of instrument	Proper stamp-duty
(ii) where the lease purports to be for a term of not less than one year but not more than five years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years;	The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years;	The same duty as Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;	The same duty as Conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity:	The same duty as a Conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee thirty paise.
Exemption	
Lease executed in the case of a cultivator and for the purpose of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank. **Explanation.**—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company,	Thirty paise.

Description of instrument	Proper stamp-duty
or, in respect of any loan to be raised by any company or proposed company. See also CERTIFICATE or other document (No. 19).	
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Twenty-two rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY:—	
(a) if accompanied by articles of association under section 26 of the Companies Act, 1956;	Sixty-six rupees.
(b) if not so accompanied—	
(i) where the nominal share capital does not exceed one lakh of rupees;	One hundred and sixty-five rupees.
(ii) where the nominal share capital exceeds one lakh of rupees.	Two hundred and seventy-five rupees.
Exemption Memorandum of any association not formed for profit and registered under section 25 of the Companies Act, 1956.	
40. MORTGAGE DEED, not being an Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession of the property comprised in such deed is not given by the mortgagor nor agreed to be given; **Explanation.**—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof is deemed to give possession within the meaning of this article;	The same duty as a Bond (No. 15) for the amount secured by such deed.
(c) (i) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped for every sum secured not exceeding Rs. 1,000;	One rupee and sixty-five paise.
(ii) and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000;	Two rupees.
Exemptions (1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage.	

Description of instrument	Proper stamp-duty
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200; and	Thirty paise.
for every Rs. 200, or part thereof secured in excess of Rs. 200	Forty paise.
(b) when the loan is repayable more than three months, but not more than eighteen months from the date of instrument—	
for every sum secured not exceeding Rs. 100; and	Forty-five paise.
for every Rs. 100, or part thereof secured in excess of Rs. 100.	Forty-five paise.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public. See also Protest of Bill or Note (No. 50).	Three rupees and thirty paise.
43. NOTE OR MEMORANDUM, sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Fifty-five paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Sixty paise for every Rs. 5,000 or part thereof of the value of the stock or security subject to a maximum of thirty-three rupees
44. NOTE OF PROTEST BY THE MASTER OF A SHIP— See also Protest by the Master of a Ship (No. 51).	Two rupees and twenty paise.
ORDER FOR THE PAYMENT OF MONEY—See Bill of Exchange (No. 13).	
45. PARTITION—Instrument of [as defined by Section 2 (15).]	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.
	N. B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other share, then one of such equal shares) shall be deemed to be that from which the other shares are separated:
	Provided always that—
	(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than two rupees and twenty paise;
	(b) where land is held on settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue;
	(c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp

Description of instrument	Proper stamp-duty
	required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed the duty on such instrument shall not exceed two rupees and twenty paise.
46. PARTNERSHIP—	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 1000;	The same duty as Bond (No. 15).
(b) in any other case—	Forty-four rupees.
B.—Dissolution of—	Twenty-two rupees.
PAWN OR PLEDGE—See Agreement relating to deposit of Title-deeds. PAWN or Pledge (No. 6)	
48. POWER-OF-ATTORNEY.— (as defined by Section 2 (21)), not being a proxy—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee and sixty-five paise.
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	One rupee and sixty-five paise.
(c) when authorizing one person or more to act in a single transaction other than the case mentioned in cl. (a);	Three rupees and thirty paise.
(d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;	Sixteen rupees and fifty paise.
(e) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty-three rupees.
(f) when given for consideration and authorizing the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(g) in any other case.	Three rupees and thirty paise for each person authorised. N. B.—The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908.
Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	Three rupees and thirty paise.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other persons lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	
52. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. See also Note of Protest by the Master of a Ship (No. 44)	Three rupees and thirty paise.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) If the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.

Description of instrument	Proper stamp-duty
(b) in any other case.	Thirty three rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A), whereby a person renounces a claim upon another person or against any specified property—	
(a) If the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the release.
(b) in any other case.	Sixteen rupees and fifty paise.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST ON SETTLEMENT— See Settlement (No. 58); Trust (No. 64).	
57. SECURITY BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case.	Sixteen rupees and fifty paise.
Exemptions	
Bond or other instrument, when executed—	
(a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	
(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per mensem;	
(c) under No. 3-A of the rules made by the Government of Bombay in Council, under section 70 of the Bombay Irrigation Act, 1879;	
(d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or by their sureties, as security for the repayment of such advances;	
(e) executed by officers of Government or their sureties to secure the due executions of an office, or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT—	
A.—Instrument of (including a deed of dower.)	The same duty as a conveyance (No. 23) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee and thirty paise.

Description of instrument	Proper stamp-duty
Exemptions (a) Deed of dower executed on the occasion of a marriage between Muhamadans. *(b) Hludassa, that is to say, any settlement of immovable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.	
B.—Revocation of—	The same duty as a Conveyance (No. 23) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding twenty-seven rupees and fifty paise.
See also Trust (No. 64).	

[*] This is now redundant and ought to have been deleted as in No. 35, above.

59. SHARE WARRANTS to bearer issued under the Companies Act, 1956.	One-and-a-half times the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemptions Share warrant when issued by a Company in pursuance of the Companies Act, 1956, section 144, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue of— (a) one-and-a-half per centum of the whole subscribed capital of the Company; OR (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital one-and-a-half per centum of the additional capital so issued.	
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	Twenty-five paise.
61. SURRENDER OF LEASE— (a) when the duty with which the lease is chargeable does not exceed seven rupees fifty paise; (b) in any other case;	The duty with which such lease is chargeable. Sixteen rupees and fifty paise.
Exemption Surrender of lease, when such lease is exempted from duty.	
63. TRANSFER OF LEASE, by way of assignment, and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption Transfer of any lease exempt from duty.	
64. TRUST—	
A.—DECLARATION OF—or concerning, any property when made by any writing not being a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding twenty-seven rupees fifty paise.
B.—REVOCATION OF—or concerning, any property when made by any instrument other than a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding twenty-seven rupees and fifty paise.
See also Settlement (No. 58).	
VALUATION—See Appraisement (No. 8).	
65. WARRANTS FOR GOODS, that is to say any instrument evidencing the title of any person therein named or his assigns, or the holder thereof, to the pro-	One rupee ten paise.

Description of instrument	Proper stamp-duty
perty in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	

ARUNACHAL PRADESH

This is a new Union Territory formed under S. 7 of the North-Eastern Areas Reorganisation Act w. e. f. 21-1-1972 and consists of areas formerly known as North Eastern Frontier Agency (NEFA). All laws prevailing in the areas continue to be in force in the said areas until repealed by competent authority.

BOMBAY

See under MAHARASHTRA.

CENTRAL PROVINCES & BERAR

NOTE.—The old Province of Central Provinces and Berar came to be known under the Constitution of India as Part A State of Madhya Pradesh. It consisted of—

(a) the territories of the Central Provinces and Berar;
(b) the merged States formerly under the jurisdiction of the Rulers of the Chhatisgarh States; and
(c) the enclaves transferred from Vindhya Pradesh.

In the year 1956 under the scheme of reorganization of the States this State of Madhya Pradesh was in effect partitioned in accordance with the provisions contained in Ss. 8 (1) and 9 (1) of the States Reorganisation Act, 1956. As from the appointed day, that is, the 1st of November, 1956, the eight districts of the then Madhya Pradesh (later on known as Vidarbha region), namely Akola, Amravati, Bhandara, Buldana, Chanda, Nagpur, Wardha and Yeotmal were added to the new State of Bombay and thus ceased to be part of the then State of Madhya Pradesh. And from that appointed day, the rest of the region of the said State of Madhya Pradesh was added in the new State of Madhya Pradesh, wherein it came to be specified as Mahakoshal region. Thus the former State of Madhya Pradesh ceased to exist.

See also Notes under (1) MADHYA PRADESH; and (2) MAHARASHTRA.

For the applicability of stamp-law at present to the Mahakoshal region and the Vidarbha region, see under (i) MADHYA PRADESH and (ii) MAHARASHTRA.

DELHI

NOTE.— Out of the territory included within the Province of the Punjab, the Chief Commissioner's Province of Delhi was created by a Proclamation dated the 17th of September, 1912 made by the Governor-General in Council. And later on, sixty-five villages, which were till then included within the United Provinces of Agra and Oudh, were, from the 1st of April, 1915, taken over and included in the Chief Commissionership of Delhi.

By virtue of section 2 of the Delhi Laws Act, 1912 and section 2 of the Delhi Laws Act, 1915, the principal Act, namely, the Indian Stamp Act, 1899, which applied to the Province of Punjab, continued to apply to the new Province of Delhi. By section 7 of the Delhi Laws Act, 1912, power was given to the Governor-General in Council to extend to the Province of Delhi by a notification any enactment in force in any part of British India subject to restrictions and modifications as he thought fit. Accordingly, by a notification dated the 11th January, 1923, the Indian Stamp (Punjab Amendment) Act, 1922 (Punj. VIII of 1922) was extended to the Province of Delhi with effect from the 15th of January, 1923.

Section 7 of the Delhi Laws Act, 1912, was repealed by section 4 of the Union Territories (Laws) Act, 1950 (XXX of 1950). At the same time, by section 2 of the said Act of 1950 power was given to the Central Government to extend enactments to the Union territory of Delhi. In exercise of the power so vested in the Central Government by section 2, notifications have from time to

time been published in the Gazette of India extending enactments to the Union territory of Delhi. Among the Acts so extended, to mention the latest notifications bearing on the subject of stamp-law only, are the Indian Stamp (Punjab Amendment) Act, 1959 (Punj. XXVI of 1959) and the Indian Stamp (Punjab Amendment) Act, 1960 (Punj. XXI of 1960) [see G.S.R. 550 and G.S.R. 330, published in Gazette, of India, 1960, Part II-Sec. 3 (i), page 787 and ibid, 1961, Part II-Sec. 3 (i), page 346 respectively.]

GUJARAT

NOTE.— Till the 30th of April, 1960, the territory that is now included in the new State of Gujarat, formed part of the former State of Bombay. Generally, the principal Act, namely, the Indian Stamp Act, 1899 (II of 1899), as amended from time to time by the State Legislature of Bombay, applied to the said territory up to the date of 16th of February, 1959. On that date, that is 16-2-1959, the Bombay Stamp Act, 1958 (Bom LX of 1958) was brought into force in the whole State of Bombay. And by Sch. II read with section 76 of the said Bombay Act, the principal Act as amended in its application to the State of Bombay and Saurashtra was repealed. As on the date on which the Bombay Stamp Act, 1958 was brought into force, the territory now known as State of Gujarat formed part of the then State of Bombay the said Bombay Act equally extended to that territory.

By section 3 of the Bombay Reorganisation Act, 1960 (XI of 1960) a new State known as the State of Gujarat was formed on the first of May, 1960. It comprises of the territories which till then formed part of the State of Bombay. By virtue of section 87 of the Bombay Reorganisation Act, 1960, the old stamp law as it existed till then continues to apply to the new State of Gujarat, until otherwise provided by a competent Legislature or other competent authority. Thus, the Bombay Stamp Act, 1958 continues to apply to the State of Gujarat, as adapted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

By the Gujarat Increase of Stamp Duties Act, 1961 (Guj. VI of 1961), the amount of stamp-duty chargeable under the Bombay Stamp Act, 1958, in respect of the instruments specified therein is increased by ten per cent.

Gujarat Stamp Laws (Amendment) Act, 1965 has further amended the Stamp Laws in the State. Amendments made by the said Act in the Stamp Act, 1899, apply to the whole of the State.

See also under Maharashtra.

HIMACHAL PRADESH

NOTE.— Rulers and Chiefs of the East Punjab Hill States (in all twenty-one States) by a signed agreement ceded the governance of their States, which were integrated by the Dominion of India into a centrally administered unit known as Himachal Pradesh. To the territory so integrated were added shortly afterwards the enclaves transferred from East Punjab, Uttar Pradesh and Pepsu. In the year 1954 the State of Bilaspur was united with Himachal Pradesh by virtue of the provisions of sections 2 and 3 of the Himachal Pradesh and Bilaspur (New State) Act, 1954.

The present position with respect to the applicability of the stamp-law is as provided in section 2 of the Union Territories (Stamp and Court-fees Laws) Act, 1961 (XXXIII of 1961). That section is as follows:

> "**2. Amendment of Indian Stamp Act, 1899, as in force in Himachal Pradesh.**— On such date as the Central Government may, by notification in the Official Gazette, appoint, for Schedule IA of the Indian Stamp Act, 1899, as in force in the Union territory of Himachal Pradesh immediately before that date, there shall be substituted, with such modifications as may be prescribed in the notification, Schedule IA to the Indian Stamp Act, 1899, as in force in the State of Punjab on the 28th day of November, 1960."

Himachal Pradesh is a full-fledged State now—See Act 53 of 1970. By the Punjab Reorganisation Act, 1966 (31 of 1966), districts of Lahaul and Spiti and certain

other areas of Punjab were transferred to the erstwhile Himachal Pradesh Union territory, w. e. f. 1-11-1966.

Indian Stamp (Himachal Pradesh Amendment) Act, 1969 amends the Stamp Act, 1899 in its application to the State and substitutes Schedule IA in its application to the State.

Punjab Acts Nos. 8 of 1922, 34 of 1960, 24 of 1964, and 6 of 1965 as in force in the areas transferred to the State under S. 5 of Act 31 of 1966, and the Schedule IA as extended to old areas of Himachal Pradesh by G.S.R. 518, d. 18-3-1964 have now been repealed and the Stamp Act as amended by H. P. Act 4 of 1952 (except Sch. I-A) as amended from time to time and all rules, notifications etc. under the said Act have been extended to the said Transferred Areas.

HYDERABAD

NOTE.— Under the provisions of the States Reorganisation Act, 1956 (XXXVII of 1956), the territories that formed part of the former State of Hyderabad till the appointed day, namely, the 1st of November, 1956, were on that date divided into three groups and were transferred to three different States. One of such groups was added to the State of Andhra Pradesh (section 3 of the said Act); another to the State of Mysore (section 7 of the said Act); and the third to the State of Bombay (section 8 of the said Act). And from the said appointed date the former State of Hyderabad ceased to exist. However, by virtue of the provision in section 119 of the States Reorganisation Act, 1956, no change was effected in the territories to which the stamp law in force immediately before the appointed day extended or applied, and the territorial references in that law to the State of Hyderabad were, until otherwise provided by a competent Legislature or other competent authority, to be construed as meaning the territories within that State immediately before the appointed day.

Thus, the Hyderabad Stamp Act, 1331F. (Hyd. IV of 1331F.) which was the stamp-law as amended from time to time and extended to the then State of Hyderabad till the appointed day continued to apply even after that date to the three Hyderabad areas added to the States of Andhra Pradesh, Mysore and Bombay. But, now the said Hyderabad Stamp Act is, subject to a saving clause, repealed in its application to—

(a) the Hyderabad area in the State of Andhra Pradesh on and from the 1st day of April, 1959 by the Indian Stamp (Andhra Pradesh Extension and Amendment) Act, 1959 (An. P. XIX of 1959). And from that date the Indian Stamp Act, 1899, as amended in its application to the Andhra area, is extended to the Hyderabad area also.

(b) the Hyderabad area in the State of Mysore on and from the 1st of June, 1958 by section 71 of the Mysore Stamp Act, 1957 (Mys. XXXIV of 1957). And from that date the said Mysore Stamp Act is made applicable to the whole State of Mysore including the Hyderabad area.

(c) the Hyderabad area in the State of Bombay on and from the 16th of February, 1959 by section 76 read with Sch. II of the Bombay Stamp Act, 1958 (Bom. LX of 1958). And from that date the said Bombay Stamp Act applies to the whole State of Bombay including the Hyderabad area.

See also under

(i) ANDHRA PRADESH;

(ii) MAHARASHTRA; and

(iii) MYSORE.

JAMMU AND KASHMIR

NOTE.— The State of Jammu and Kashmir has its own Stamp Act known as the Stamp Act, 1977 (1920 A. D.) (XL of 1977) This Act extends to the whole State of Jammu and Kashmir and has come into force on the 1st day of Baisakh, 1977.

The text of this Stamp Act as amended from time to time will be found reproduced in an Appendix at the end of the schedules to the principal Act.

KERALA

NOTE.— By executing a Covenant, the Maharajas of the former Indian States of Travancore and Cochin agreed to unite their separate States into one new State; and thus the United State of Travancore-Cochin came into existence on and from the 1st of July, 1949. Till then and even after the formation of the United new State, the Travancore Stamp Act, 1080 (Travancore IV of 1080) and the Cochin Stamp Act, 1083 (Cochin VI of 1083) applied to the respective areas of the new State. These Acts were repealed by section 2 of the Travancore-Cochin Stamp Act, 1125 (I of 1125) on 20-2-1125 and the said Stamp Act was extended from that date to the whole of the State of Travancore-Cochin.

As from the appointed day, that is the 1st of November, 1956, a new State known as the State of Kerala was created out of the territories of the existing State of Travancore-Cochin, excluding the territories transferred to the State of Madras. This was achieved by the provisions contained in sections 4 and 5 of the States Reorganisation Act, 1956 (XXXVII of 1956). However, by virtue of section 119 of the said Act, the Travancore-Cochin Stamp Act, 1125, continued to hold the field even after the appointed day in the new State of Kerala. On and from the 1st of September, 1960, the Kerala Stamp Act, 1959 (Ker. XVII of 1959), which extends to the whole of the State of Kerala, was brought into force and by section 73 of the said Kerala Stamp Act the Travancore-Cochin Stamp Act, 1125 was repealed subject to a saving clause.

The complete text of the Kerala Stamp Act, 1959, is given in an Appendix after the schedules to the principal Act in this volume of the Manual.

MAHARASHTRA

NOTE.—On the day the Constitution of India came into force, that is, the 26th of January, 1950, the then Province of Bombay, known under the Constitution as Part A State of Bombay, consisted of the territories later on came to be known as—

(a) the Bombay area;

(b) the Gujarat area;

(c) the merged States, that is, the territories which were formerly under the jurisdiction of the Rulers of the Indian States;

(d) the enclaves that were included by exchange from the neighbouring States; and

(e) the transferred territories, that is, the territories which were later on transferred to the States of Mysore and Rajasthan.

By section 8 of the States Reorganisation Act, 1956, a new State of Bombay was formed. It was born on the 1st day of November, 1956 (the appointed day). This new State of Bombay comprised the territories known as—

(i) the Bombay area (including the respective merged States and enclaves);

(ii) the Gujarat area (including the respective merged States and enclaves);

(iii) the then existing Part C State of Kutch;

(iv) the then existing Part B State of Saurashtra;

(v) the Vidarbha area, namely, the eight districts till then forming part of the then State of Madhya Pradesh (that is, C. P. and Berar); and

(vi) the Hyderabad area, that is, the districts and taluks till then forming part of Part B State of Hyderabad;

but excluding the transferred territories, that is, the four districts transferred to the State of Mysore and the Abu Road taluka transferred to the State of Rajasthan (see the Bombay General Clauses Act, 1904, S. 3 (46B) for definition of "transferred territories.")

Of these different areas, the first two came to be referred to compendiously in subsequent Bombay Acts as pre-reorganisation State of Bombay, excluding the transferred territories (for definition, see the Bombay General Clauses Act, 1904, S. 3 (35A), cl. (b).)

Excepting the Hyderabad area, the principal Act, namely the Indian Stamp Act, 1899 (II of 1899) applied to all these different areas. However, the principal Act was being applied to these respective areas, as amended from time to time, till the appointed day, by the amending or extending and adapting Acts passed at different times by not less than four separate States, namely, by Legislatures or other competent authorities of the States of Bombay, C. P. and Berar (M. P.), Kutch and Saurashtra. So far as the Hyderabad area was concerned it was being governed by its own stamp law, namely, the Hyderabad Stamp Act, 1331 (Hyd. IV of 1331F.) as amended till the appointed day. Thus, the proper stamp-duty chargeable on the instruments was to be fixed and paid differently in different areas though all these areas formed an integral part of one and the same State. This polymorphous state of stamp-law continued, even after the reorganization of the State, up to the year 1958.

In the year 1958, with a view to consolidate and amend the law relating to stamp and stamp-duties in the State of Bombay, the Legislature of the State enacted a new Stamp Act, namely, the Bombay Stamp Act, 1958 (Bom. LX of 1958). This Act extended to the whole of the State of Bombay, that is all the six areas mentioned above, and was brought into force on the 16th of February, 1959. At the same time, by section 76 of the Act read with Sch. II the stamp-law contained in the principal Act as amended till then, or contained in the Hyderabad Stamp Act, was, subject to a saving clause, repealed, except in so far as it related to documents specified in Entry 91 of List 1 of the Seventh Schedule to the Constitution of India. Thus the old stamp-law was repealed in its application to the pre-reorganization State of Bombay excluding the transferred territories, the Hyderabad area, the Kutch area, the Saurashtra area and the Vidarbha area of the State of Bombay.

The unity thus achieved did not, however, last long; for out of these six integrated areas of the State of Bombay, once again, two new States were formulated by Parliament on and from the 1st day of May, 1960, by enacting sections 3 and 4 of the Bombay Reorganization Act, 1960 (XI of 1960). These new States are now known as the State of Gujarat and the State of Maharashtra. Broadly speaking, the State of Gujarat is made up of the areas mentioned in items (ii), (iii) and (iv) mentioned above, while the rest of the areas go to formulate the State of Maharashtra. By section 87 of the said Act the provisions relating to the formation of the new States are not to be deemed to have effected any change in the territories to which any law in force immediately before the 1st of May, 1960, extended or applied, and the territorial references in any such law to the State of Bombay should, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before that day.

The Bombay Stamp Act, 1958, has been adapted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960. By this order, though the title of the Act remains the same, the reference to the State of Bombay in the extension clause of section 1 is adapted so as to read as a reference to the State of Maharashtra.

The said Bombay Act of 1958 is, in its application to the State of Maharashtra, amended by Maha. Acts X of 1960; XXXI of 1962; X of 1965; XXIV of 1972.

The text of the Bombay Stamp Act, 1958, so amended, is given in an Appendix after the schedules to the principal Act.

MANIPUR

NOTE.— On the signing of instrument of merger by the Maharaja of Manipur, administration of Manipur was taken over and the State was administered since 1950 as a Chief Commissioner's Province. The State of Manipur now forms a State under Act 81 of 1971 (21-1-1972).

The Indian Stamp Act, 1899, was applied to the State of Manipur by S. 3 of the Union Territories (Laws) Act, 1950. At present the stamp-law that applies to the State of Manipur is as indicated in section 5 of the Union Territories (Stamp and Court-fees Laws) Act, 1961 (XXXIII of 1961). That section is as follows:

"**5. Repeal of the Indian Stamp Act, 1899, as in force in Manipur.**—(a) On the date° on which the Indian Stamp Act, 1899, as in force in the State of Assam, is extended to the Union territory of Manipur by notification under section 2 of the Union Territories (Laws) Act, 1950, the Indian Stamp Act, 1899, as in force in that Union territory immediately before the date of such notification, shall stand repealed."

And section 6 of the same Act is as follows:

"**6. Validation of levy of stamp-duties in certain cases.**— Any stamp-duties levied and collected in the Union territory of Manipur during the period commencing on the 16th day of April, 1950, and ending on the date° on which the Indian Stamp Act, 1899, as in force in the State of Assam is extended to that Union territory under section 5, in the belief that the Indian Stamp Act, 1899, as in force in the State of Assam immediately before the 16th day of April, 1950, was applicable to that Union territory, shall be deemed always to have been levied and collected in accordance with law."

[°] For such notification, see G.S.R. 1121, d. 29-6-1963 which extends as in force in the State of Assam from 15-7-1963. For amendments see Gaz. Ind., 1963, Pt. II, S. 3 (i), p. 559 et seq.

MEGHALAYA

A new State called Meghalaya consisting of the areas comprised in the Autonomous State of Meghalaya as formed under S. 3 of the Assam Reorganisation Act, 1969 (55 of 1969), has been formed under S. 5 of the North-Eastern Areas Reorganisation Act, 1971 (81 of 1971), w.e.f. 21-1-1972.

All laws existing in the State prior to 21-1-1972 have been continued as also the existing District and Regional Councils in the areas of the new State have been continued—See Ss. 77 to 80 of Act 81 of 1971. Stamp Act as in Assam on 12-1-1970 when Meghalaya was first carved out by Act 55 of 1969 applies to Meghalaya State.

MIZORAM

This is a new Union territory created under S. 6 of Act 81 of 1971, w. e. f. 21-1-1972. All laws existing therein have been continued. This Union Territory covers the former Mizo district of Assam.

MYSORE

NOTE.— Mysore was an Indian State under the rule of the Maharaja of Mysore. The Maharaja of Mysore signed an instrument of accession (1947) and under the Constitution of India this former Indian State became Part B State of Mysore (1950).

To this Part B State of Mysore were added the enclaves transferred from the State of Madras (1950) and the District of Bellary by virtue of the provisions in section 4 of the Andhra State Act, 1953.

Once again, certain territories were added to the State on and from the 1st of November, 1956, by section 7 of the States Reorganisation Act, 1956. From Part B State it became Part A State and then came to be known simply as the State of Mysore. Under the scheme of the reorganisation, to the existing territories of Mysore were added territories from the States of Bombay, Hyderabad, Madras and the former Indian State of Coorg, which had already merged in India. Thus, the State of Mysore consisted of the territories known as—

(a) Mysore area;
(b) Bombay area;
(c) Hyderabad area;
(d) Madras area; and
(e) Coorg district.

Different stamp laws applied to these different areas. Thus, while to the Mysore area the Mysore Stamp Act, 1900 (Mys. II of 1900) applied, in the other areas of that State the instruments were being charged according to the stamp-duty prescribed in the principal Act, that is, the Indian Stamp Act, 1899 (II of 1899), as amended from time to time in the States of Bombay, Hyderabad and Madras (Coorg having the stamp law as that in the State of Madras). This difference in stamp law continued till the 1st of June, 1958, the date on which the Mysore Stamp Act, 1957 (Mys. XXXIV of 1957), enacted with a view to consolidate and amend the laws relating to stamps, was brought into force throughout the whole State of Mysore. And on the commencement of this new Stamp Act, the old Stamp Acts prevailing in the Mysore area and the Hyderabad area, namely, the Mysore Stamp Act, 1900 (Mys II of 1900) and the Hyderabad Stamp Act, 1331F. (Hyd. IV of 1331F.) were repealed along with the principal Act as it applied to the Bombay and Madras areas and Coorg district (see sections 71 and 72 of the said Mysore Stamp Act).

The complete text of this Mysore Stamp Act, 1957, as amended subsequently, is given in an Appendix after the schedules to the principal Act.

NAGALAND

The State of Nagaland was carved out of the State of Assam by State of Nagaland Act, 1962 (27 of 1962) and comprises the territories which previously were comprised in the Naga Hills-Tuensang Area. Acts as were in force in that area as a part of Assam were continued to be in force in the said areas after their incorporation as Nagaland State. The said Act came into force on 1-12-1963 and hence the Stamp Act as in force in the State of Assam as on that date continues to apply to the State of Nagaland.

PONDICHERRY

(i) Indian Stamp Act, as in force in the State of Madras (Tamil Nadu) on the 1st day of August, 1966, has been extended to the Union Territory of Pondicherry by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968), Section 3 (i) and Schedule, Pt. II, with certain modifications in Schedule I. These modifications are given below:—

SCHEDULE I

Entry No.	Description of Instrument 1	Proper Stamp Duty 2
9.	Exemption omitted.*	
15.	For Madras Court-fees and Suits Valuation Act, 1955 (Mad. Act XIV of 1955)" substitute the words "Court-fees Act, 1870 (7 of 1870)".*	
20A.	Omit Entry 20A.*	
62.	In Entry 62 in clause (d), for "Administrators-General Act, 1913, Section 25", substitute "Administrators-General Act, 1963 (45 of 1963), Section 25".*	

[*] See Act 28 of 1968, S. 3 (1) and Sch., Pt. II.

(ii) Following are further amendments in the Schedule by Pondi. Act 21 of 1970. Mostly the said amendments follow those made in Tamil Nadu in 1962 and 1967. Amendments are given below entrywise:

(a) 18—In column 2, in clause (c), substitute 'market-value' for 'consideration'.

(b) 23—Same as in Tamil Nadu.

(c) 31—Same as in Tamil Nadu.

(d) 32—Same as in Tamil Nadu.

(e) 33—Same as in Tamil Nadu.

(f) 35—Same as in Tamil Nadu.

(g) 40—Same as in Tamil Nadu.

(h) 45—For clause (b) of the Proviso, substitute the following:—

"(b) Where the land is held on Revenue Settlement and paying the full assessment, the value for the purpose of duty shall be calculated at twenty-five times the annual revenue."

(i) 48, clause (e), second column—Same as in Tamil Nadu.

(j) 54, Col. 2, clause (a)—Same as in Tamil Nadu.

(k) 59, Col. 2—Same as in Tamil Nadu.

(l) 63, Col. 2—Same as in Tamil Nadu.

—Pondi. Act 21 of 1970, Section 10 (5-8-1970).

Note.—Stamp Act as in Tamil Nadu on 1-8-1966 alone has been extended to Pondicherry. Tamil Nadu amendments subsequent to that date would not apply to Pondicherry unless they have been adopted by Pondicherry statutes specifically or generally.

RAJASTHAN

Note.—Schedule I to the principal Act, namely, the Indian Stamp Act, 1899 (II of 1899), is replaced with amendments by Schedule I by the Rajasthan Stamp Law (Adaptation) Act, 1952. The said Schedule of Rajasthan was amended from time to time by Raj. Acts XVII of 1953, XXVI of 1953, VII of 1956, XI of 1958, XI of 1959, XIII of 1963 and XVI of 1966. These rates of stamp-duty, as so amended, apply to the whole of the State of Rajasthan on and from the 1st day of April, 1958.

The amount of stamp-duty chargeable under the Stamp Act, 1899, as adapted to the State of Rajasthan is to be increased by way of a surcharge. The rate of surcharge is fixed by Section 2 of the Rajasthan Finance Act, 1961 (Raj. XIV of 1961). This Finance Act came into force on the 4th of May, 1961 (amended by Raj. Act XIII of 1963).

Section 2 is as follows:—

"**2. Enhancement of stamp-duty.**—(1) The amount of duty chargeable under the Indian Stamp Act, 1899 (Central Act II of 1899), as adapted to the State of Rajasthan, by the Rajasthan Stamp Law (Adaptation) Act, 1951 (Raj. VII of 1952), hereinafter referred to as the Stamp Act, shall, on all instruments except bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, be increased by a surcharge at the following rate, namely:—

Amount of duty	Rate of surcharge*
On every whole rupee ..	50 naye paise.
On a fraction of a rupee up to 25 naye paise.	20 naye paise.
On a fraction of a rupee exceeding 25 naye paise but not exceeding 50 naye paise ..	25 naye paise.
On a fraction of a rupee exceeding 50 naye paise but not exceeding 75 naye paise ..	45 naye paise.
On a fraction of a rupee exceeding 75 naye paise ..	50 naye paise.

(2) The provisions of the Stamp Act and the Rules made thereunder shall, save in so far as they are inconsistent with anything contained in sub-section (1), apply for the purposes of this section."

[*] Substituted by Raj. Act XIII of 1963, Section 2 (29-4-1963).

Schedule I as in force in Rajasthan is given below:

SCHEDULE I

Description of Instrument 1	Proper Stamp Duty 2
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper	Fifteen naye paise.

Description of Instrument 1	Proper Stamp Duty 2
is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	
2. ADMINISTRATION BOND, including a bond given under Sections 291, 375 and 376 of the Indian Succession Act, 1925, or under Section 6 of the Government Savings Bank Act, 1873,—	
(a) where the amount does not exceed *[Rs. 1,000] ..	The same duty as on a Bond (No. 15) for such amount.
(b) in any other case ..	Ten rupees.
[*] Substituted for "Rs. 1,500" by Raj. Act VII of 1956. Section 2 (11-4-1956).	
3. ADOPTION DEED, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer any authority to adopt.	Twenty rupees.
4. AFFIDAVIT, including an affirmation or declaration in the case of person by law allowed to affirm or declare instead of swearing.	Two rupees.
Exemptions.	
Affidavit or declaration in writing when made—	
(a) as a condition of enrolment in the Indian Army or the Indian Air Force;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Twenty-five naye paise.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of twenty rupees fifteen naye paise for every Rs. 10,000 or part thereof of the value of the security or share.
(c) if not otherwise provided for.	One rupee.
Exemptions*	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43;	
(b) made in the form of tenders to the Government for or relating to any loan;	
[*] No agreement made under the Rajasthan Land Acquisition Act, 1953 (Raj. XXIV of 1953), is chargeable with stamp-duty—See Section 51 of that Act.	
6. AGREEMENT, relating to deposit of title-deeds, pawn or pledge, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security) or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advan-	

Description of Instrument 1	Proper Stamp Duty 2
ced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement,	
where the amount of the loan or debt does not exceed Rs. 200.	Twenty naye paise.
where it exceeds Rs. 200 but does not exceed Rs. 400.	Fifty naye paise.
where it exceeds Rs. 400 but does not exceed Rs. 600.	Seventy-five naye paise.
where it exceeds Rs. 600 but does not exceed Rs. 800.	One rupee.
where it exceeds Rs. 800 but does not exceed Rs. 1,000.	One rupee and twenty-five naye paise.
where it exceeds Rs. 1,000 but does not exceed Rs. 1,200.	One rupee and fifty naye paise.
where it exceeds Rs. 1,200 but does not exceed Rs. 1,600.	Two rupees.
where it exceeds Rs. 1,600 but does not exceed Rs. 2,500.	Three rupees.
where it exceeds Rs. 2,500 but does not exceed Rs. 5,000.	Six rupees.
where it exceeds Rs. 5,000 but does not exceed Rs. 7,500.	Nine rupees.
where it exceeds Rs. 7,500 but does not exceed Rs. 10,000.	Twelve rupees.
where it exceeds Rs. 10,000 but does not exceed Rs. 15,000.	Eighteen rupees.
where it exceeds Rs. 15,000 but does not exceed Rs. 20,000.	Twenty-four rupees.
where it exceeds Rs. 20,000 but does not exceed Rs. 25,000.	Thirty rupees.
where it exceeds Rs. 25,000 but does not exceed Rs. 30,000.	Thirty-six rupees.
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	Twelve rupees.
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable under clause (a) for the amount secured.
Exemptions.	
Instruments of pawn or pledge of agricultural produce if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a will.	Twenty-five rupees.
8. APPRAISEMENT OR VALUATION, made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed *[Rs. 1,000].	The same duty as on a Bond (No. 15) for such amount.
(b) in any other case.	Ten rupees.
Exemptions.	
(a) Appraisement or valuation made for the information of one party only; and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	

[*] Substituted for "Rs. 1,500" by Raj. Act VII of 1956, Section 2 (11-4-1956).

Description of Instrument 1	Proper Stamp Duty 2
9. APPRENTICESHIP-DEED including writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment.	Ten rupees.
10. ARTICLES OF ASSOCIATION OF A COMPANY.	Fifty rupees.
Exemptions	
Articles of any Association not formed for profit and registered under Section 26 of the Companies Act, 1956.	
12. AWARD*, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000.	The same duty as on a Bond (No. 15) for such amount.
(b) in any other case ..	Ten rupees.
[*] For exemption from stamp duty on an award, see the Rajasthan Land Acquisition Act, 1953 (Raj. XXIV of 1953), Section 51.	
15. BOND [as defined by Section 2 (5)] not being a debenture and not being otherwise provided for by this Act or by the Court-fees Act, 1870, of the Central Legislature as adapted to Rajasthan—	
where the amount or value secured does not exceed Rs. 10.	Twenty naye paise.
where it exceeds Rs. 10 and does not exceed Rs. 50.	Forty naye paise.
where it exceeds Rs. 50 and does not exceed Rs. 100.	Seventy-five naye paise.
where it exceeds Rs. 100 and does not exceed Rs. 200.	One rupee and fifty naye paise.
where it exceeds Rs. 200 and does not exceed Rs. 300.	Two rupees and twenty-five naye paise.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500.	Three rupees and seventy-five naye paise.
where it exceeds Rs. 500 and does not exceed Rs. 600.	Six rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700.	Seven rupees.
where it exceeds Rs. 700 and does not exceed Rs. 800.	Eight rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900.	Nine rupees.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Seven rupees and fifty naye paise.
18. CERTIFICATE, of sale (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue officer—	
(a) where the purchase money does not exceed Rs. 10.	Twenty-five naye paise.
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25.	Fifty naye paise.

Description of Instrument 1	Proper Stamp Duty 2
(c) in any other case.	The same duty as on a Conveyance (No. 23) for consideration equal to the amount of the purchase-money only.
19. [Omitted by Raj. Act XI of 1958 (3-4-1958).]	
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debts is secured to the creditors or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence for the benefit of his creditors.	Fifteen rupees.
***23. CONVEYANCE** [as defined by section 2 (10)—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50.	One rupee.
where it exceeds Rs. 50 but does not exceed Rs. 100.	Two rupees.
where it exceeds Rs. 100 but does not exceed Rs. 200.	Four rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300.	Six rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400.	Eight rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500.	Ten rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600.	Twelve rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700.	Fourteen rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800.	Sixteen rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900.	Eighteen rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000.	Twenty rupees.
where it exceeds Rs. 1,000 but does not exceed Rs. 10,000.	
for every Rs. 500 or part thereof in excess of Rs. 1,000.	Twelve rupees.
where it exceeds Rs. 10,000 but does not exceed Rs. 25,000.	
for every Rs. 500 or part thereof in excess of Rs. 10,000.	Sixteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Twenty rupees.
Exemptions	
Assignment of copyright by entry made under the Indian Copyright Act, 1957.	
[*] Substituted by Raj. Act XIII of 1963, Section 3 (29-4-1963).	
24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee	Seventy-five naye paise.
(ii) in any other case	One rupee and fifty naye paise.
Exemptions*	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	

Description of Instrument	Proper Stamp Duty
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	

[*] For exemption from stamp-duty on a copy of agreement or award, see the Rajasthan Land Acquisition Act, 1953 (Raj. XXIV of 1953), Section 51.

25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed two rupees.	The same duty as is payable on the original.
(b) in any other case ..	Two rupees.
Exemptions	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(a) where the amount does not exceed *[Rs. 1,000];	The same duty as on a Bond (No. 15) for such amount.
(b) in any other case ..	Ten rupees.

[*] Substituted for "Rs. 1,500" by Raj Act VII of 1956, Section 2 (11-4-1956).

28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person, therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any warehouse in which goods are stored or deposited on rent or hire, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	Fifteen naye paise.
29. DIVORCE — Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Five rupees.
30. [Omitted by Raj. Act XI of 1958 (3-4-1958).]	
31. EXCHANGE OF PROPERTY — Instrument of.	The same duty as on a Conveyance (No. 28) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
32. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property —	
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as on a Conveyance (No. 28) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in Cl (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as on a Conveyance (No. 23) for a consideration equal to the total amount of the charge including the original mortgage and any further charge already made less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as on a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a settlement (No. 58) or Will or Transfer (No. 62).	The same duty as on a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
	*[Provided that where an instrument of gift contains any provisions for the revocation of the gift, the value of the property which is the subject-matter of the gift

Description of Instrument 1	Proper Stamp Duty 2
	shall, for the purposes of duty, be determined as if no such provisions were contained in the instrument.]
[°] Inserted by Raj. Act XVI of 1966, Section 3 (13-6-1966).	
34. INDEMNITY BOND ..	The same duty as on a Security Bond (No. 57) for the same amount.
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as on a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years;	The same duty as on a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years;	The same duty as on a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term;	The same duty as on a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity.	The same duty as on a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved.	The same duty as on a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as on a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee.
Exemptions (a) Lease executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink).	
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors, that the latter shall for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Fifteen rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY.	
(a) if accompanied by Articles of Association under °[section 26] of the Companies Act, 1956;	Thirty rupees.
(b) if not so accompanied.	One hundred rupees.
Exemptions Memorandum of any Association not formed for profit and registered under °[section 25] of the Companies Act, 1956.	

[°] Substituted for "Section 17" and "Section 26" respectively by Raj. Act XI of 1958 (3-4-1958).

Description of Instrument 1	Proper Stamp Duty 2
40. MORTGAGE DEED, not being an agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6), Mortgage of a crop (No. 41), or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as on a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid; **Explanation.**—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article;	The same duty as on a Bond (No. 15) for the amount secured by such deed.
(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	One rupee.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	One rupee.
Exemptions	
(1) Instruments executed by agriculturists taking advances from the Government or by their sureties as security for the repayment of such advance.	
(2) Letters of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan, made upon any mortgage of a crop, whether the crop is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Fifteen naye paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Fifteen naye paise.
(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Twenty naye paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Twenty naye paise.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public.	Two rupees.
43. NOTE OR MEMORANDUM, sent by a broker or agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Twenty-five naye Paise.

Description of Instrument 1	Proper Stamp Duty 2
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of twenty rupees, fifteen naye paise for every Rs. 10,000 or part thereof of the value of the stock or security.
45. PARTITION.— Instrument of [as defined by section 2 (15)].	The same duty as on a Conveyance (No. 23) for the amount or value of the separated share or shares of the property. N.B.—The largest share remaining after property is partitioned (or if there are two or more shares of equal value and not smaller than that of the other shares then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that (a) when an instrument of partition containing an agreement to divide property in severalty is executed and partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee; (b) where land is held on revenue settlement for a period *[not] exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue: (c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee.

[*] Inserted by Raj. Act XVII of 1953, S. 3 (1-10-1953).

46. PARTNERSHIP—	
(A) Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 500;	Five rupees.
(b) in any other case.	Twenty rupees.
(B) Dissolution	Ten rupees.
48. POWER OF ATTORNEY [as defined by section 2 (21)] not being a Proxy (No. 52)—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.	One rupee.
(b) when authorising one person or more to act in a single transaction other than the case mentioned in cl. (a);	Two rupees.
(c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Seven rupees and fifty naye paise.
(d) when authorising more than five persons but not more than ten persons to act jointly and severally in more than one transaction or generally;	Fifteen rupees.

Description of Instrument 1	Proper Stamp Duty 2
(e) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as on a Conveyance (No. 23) for the amount of the consideration.
(f) in any other case.	Two rupees for each person authorised.
N. B. — The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908.	
Explanation.— For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note.	Two rupees.
54. RE-CONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000/-;	The same duty as on a Conveyance (No. 23) for the amount of such consideration as set forth in the re-conveyance.
(b) in any other case	Twenty rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000/-;	The same duty as on a Bond (No. 15) for the amount or value as set forth in the release.
(b) in any other case	Ten rupees.
57. SECURITY BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office, or to account for money or °[other] property received by virtue thereof or executed by a surety to secure the due performance of a contract (or the due discharge of a liability)—	
(a) when the amount secured does not exceed †[Rs. 1,000]—	The same duty as on a Bond (No. 15) for the amount secured.
(b) in any other case	Ten rupees.
Exemptions.	
Bond or other instrument when executed—	
(a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall be not less than a specified sum per mensem;	
(b) executed by agriculturists taking advances from the Government or by their sureties as security for the repayment of such advances;	
(e) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	

[°] Inserted by Raj. Act XVII of 1953, S. 4 (1-10-1953).

[†] Substituted for "Rs. 1,500" by Raj. Act VII of 1956, S. 2 (11-4-1956).

58. SETTLEMENT—	
A.— Instrument of (including a deed of dower).	The same duty as on a Bond (No. 15) for a sum equal to °[the amount or value of] the property settled as set forth in such settlement:

Description of Instrument 1	Proper Stamp Duty 2
	Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee.
Exemptions. Deed of dower executed on the occasion of a marriage between Mohammadans.	
B.— Revocation of	The same duty as on a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding fifteen rupees.

[*] Inserted by Raj. Act XVII of 1953, S. 5 (1-10-1953).

59. [Omitted by Raj. Act XI of 1958 (3-4-1958).]	
61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed seven rupees and fifty naye paise;	The duty with which lease is chargeable.
(b) in any other case	Seven rupees and fifty naye paise.
Exemptions. Surrender of lease when such lease is exempted from duty.	
62. [Omitted by Raj. Act XI of 1958 (3-4-1958).]	
63. TRANSFER OF LEASE by way of assignment and not by way of underlease.	The same duty as on a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemptions. Transfer of any lease exempt from duty.	
64. TRUST:—	
A.—Declaration of, or concerning any property, when made by any writing not being a will.	The same duty as on a Bond (No. 15) for a sum equal to the amount or value of the property concerned but not exceeding twenty rupees.
B.—Revocation of, or concerning any property when made by any instrument other than a will.	The same duty as on a Bond (No. 15) for a sum equal to the amount or value of the property concerned but not exceeding fifteen rupees.
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock; *[warehouse] or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Forty naye paise.

[*] Substituted for "house" by Raj. Act XVII of 1953, S. 7 (1-10-1953).

TAMIL NADU

NOTE.—Formerly Schedule IA was inserted after Schedule I to the Principal Act, namely, the Stamp Act, 1899 (II of 1899), by section 13 of the Madras Stamp (Amendment) Act, 1922 (Mad. VI of 1922). The stamp-duties chargeable on certain instruments under the Principal Act as in force in the then Province of Madras had been increased by the Madras Stamp (Increase of Duties) Act, 1943 (Mad. XVI of 1943). The numbers of the articles of Schedule IA as in force in the Province of Madras did not, in all cases, correspond with similar articles of schedule I of the Principal Act.

Now, on and from the first day of October, 1958, Schedule IA is omitted by section 16 of the Indian Stamp (Madras Amendment) Act, 1958 (Mad. XIV of 1958). By section 15 of the said Madras Act, Schedule I to the Principal Act is amended. The entries so amended are Entries 1 to 12, 15 to 20, 22 to 26, 28 to 36, 38 to 46, 48, 50

and 51, 54 to 61, clauses (b) to (e) in 62 and 63 to 65. The Indian Stamp (Madras Amendment) Act, 1958, extends to the whole of the State of Madras.

By section 19 of the said Madras Act of 1958, the Principal Act, as was in force and as is amended by the said Madras Act in its application to the State of Madras is extended to and shall be in force in the transferred territory, that is, the Kanya Kumari District and the Shencottah taluk of the Tirunelveli District. Any corresponding law as was in force in the transferred territory is, subject to a saving clause, repealed on and from the 1st of October, 1958.

The relevant sections of the Indian Stamp (Madras Amendment) Act, 1958, dealing with the construction of references and repeal are as follows:

"**17. Construction of references to Schedule IA.**— All references in any enactment or in any notification, rule or order under any enactment or in any contract, deed or other instrument to any stamp-duty payable under Schedule IA to the Principal Act shall be construed as references to the stamp-duty payable under Schedule I to the Principal Act as amended by this Act.

"**18. Repeal and savings.**—The Madras Stamp (Amendment) Act, 1922 (Mad. VI of 1922) and the Madras Stamp (Increase of Duties) Act, 1943 (Mad. XVI of 1943) are hereby repealed as from the commencement of this Act:

Provided that section 8A of the Madras General Clauses Act, 1891 (Mad. I of 1891), shall apply as if section 4 of the Madras Stamp (Increase of Duties) Act, 1943 [directing that during the continuance of the said Madras Act, the Indian Stamp Act, 1899, shall have effect as if it had been amended in the manner specified in the said section 4] had expressly amended the text of the said Central Act."

Though the said amending Madras Act of 1958 amends the articles in Schedule I to the Principal Act, the articles so amended are given below in order to facilitate reference to them readily.

SCHEDULE I°

Description of Instrument 1	Proper Stamp Duty 2
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	**Fifteen paise.**

[°] The duties on Arts. 1 to 10, 12, 15 to 20A, 22-24, 26, 28, 29, 31-36, 38-46, 48, 50, 51, 54 to 60, 62 (b), (d) and (e), and 63 to 65 have been increased by T. N. Act VIII of 1962, S. 2 w. e. f. 10-9-1962.

2. ADMINISTRATION BOND including a bond given under section 291 or section 375 of the Indian Succession Act, 1925 or section 6 of the Government Savings Banks Act, 1873—	
(a) where the amount does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for such amount.
(b) in any other case	Twenty-two rupees and fifty paise.
3. ADOPTION-DEED, that is to say, any instrument (other than a will), recording an adoption, or conferring or purporting to confer an authority to adopt ..	Thirty-three rupees, seventy five paise.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing	Four rupees fifty paise.

Description of Instrument	Proper Stamp Duty
Exemptions.	
Affidavit or declaration in writing when made—	
(a) as a condition of enlistment under the Army Act, 1950;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Sixty paise.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of forty-five rupees for every Rs. 10,000 or part thereof, of the value of the security or share.
(c) if not otherwise provided for ..	Two rupees twenty-five paise.
Exemptions.	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 43;	
Agreement or memorandum of agreement—	
(b) made in the form of tenders to the Central Government for, or relating to any loan.	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument, evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) If such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	

	If drawn* singly	If drawn* in set of two for each part of the set	If drawn* in set of three for each part of the set
	Rs. np.	Rs. np.	Rs. np.
(i) when the amount of the loan or debt does not exceed Rs. 200	0 60	0 40	0 20
(ii) when it exceeds Rs. 200, but does not exceed Rs. 400	1 15	0 60	0 40
when it exceeds Rs. 400, but does not exceed Rs. 600	1 70	0 95	0 60
when it exceeds Rs. 600, but does not exceed Rs. 800	2 25	1 15	0 75
when it exceeds Rs. 800, but does not exceed Rs. 1,000	2 85	1 50	0 95
when it exceeds Rs. 1,000, but does not exceed Rs. 1,200	3 40	1 70	1 15
when it exceeds Rs. 1,200, but does not exceed Rs. 1,600	4 50	2 25	1 50
when it exceeds Rs. 1,600 but does not exceed Rs. 2,500	6 75	3 40	2 25

Description of Instrument	Proper Stamp Duty		
	If drawn* singly	If drawn* in set of two for each part of the set	If drawn* in set of three each part of the set
	Rs. np.	Rs. np.	Rs. np.
when it exceeds Rs. 2,500, but does not exceed Rs. 5,000	13 50	6 75	4 50
when it exceeds Rs. 5,000, but does not exceed Rs. 7,500	20 25	10 15	6 75
when it exceeds Rs. 7,500, but does not exceed Rs. 10,000	27 00	13 50	9 00
when it exceeds Rs. 10,000, but does not exceed Rs. 15,000	40 50	20 25	13 50
when it exceeds Rs. 15,000, but does not exceed Rs. 20,000	54 00	27 00	18 00
when it exceeds Rs. 20,000, but does not exceed Rs. 25,000	67 50	33 75	22 50
when it exceeds Rs. 25,000, but does not exceed Rs. 30,000 ..	81 00	40 50	27 00
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000	27 00	13 50	9 00
(b) If such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured. Stamp duty of half a naya paisa shall be omitted.		
Exemption Instrument of pawn or pledge of goods if unattested.			
[*] W. e. f. 10-9-1962. This has now been increased by one and a half times by T. N. Act VIII of 1962.			
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a will.	Fifty-six rupees twenty-five paise.		
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—			
(a) where the amount does not exceed Rs. 1,000	The same duty as a Bottomry Bond (No. 16) for such amount.		
(b) in any other case	Twenty-two rupees and twenty-five paise.		
Exemptions (a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law. (b) Appraisement of crops, for the purpose of ascertaining the amount to be given to a landlord as rent.			
9. APPRENTICESHIP DEED, including every writing relating to the service of tuition of any apprentice, clerk or servant placed, with any master to learn any profession, trade or employment not being Articles of Clerkship (No. 11).	Eleven rupees twenty-five paise.		
Exemption Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850 or by which a person is apprenticed by, or at the charge of, any public charity.			
10. ARTICLES OF ASSOCIATION OF A COMPANY	One hundred and fifty rupees.		
Exemption Articles of any association, not formed for profit and registered under the Companies Act, 1956.			

Description of Instrument	Proper Stamp Duty
11. ARTICLES OF CLERKSHIP OR CONTRACT, whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in the Madras High Court.	Three hundred and seventy-five rupees.
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the court in the course of a suit—	
(a) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 16) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Twenty rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee fifty paise subject to a maximum of one hundred and fifty rupees.
15. BOND as defined by section 2 (5) not being a Debenture and not being otherwise provided for by this Act, or by the Madras Court-fees and Suits Valuation Act, 1955 (Mad. XIV of 1955)—	
where the amount or value secured does not exceed Rs. 10;	Twenty-five naye paise.*
where it exceeds Rs. 10 and does not exceed Rs. 50;	Fifty naye paise.°
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee.°
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees fifty naye paise.*
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees seventy-five naye paise.°
where it exceeds Rs. 300 and does not exceed Rs. 400;	Five rupees.°
where it exceeds Rs. 400 and does not exceed Rs. 500;	Six rupees twenty-five naye paise.*
where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees.*
where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten rupees fifty naye paise.*
where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve rupees.°
where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees fifty naye paise.*
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees.*
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees fifty naye paise.°
Exemption	
Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.	
[°] These rates have now been increased by one and a half times, w. e. f. 10-9-1962, by T. N. Act VIII of 1962.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a seagoing ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10;	Forty naye paise.°
where it exceeds Rs. 10 and does not exceed Rs. 50;	Seventy-five naye paise.*
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee fifty naye paise.*
where it exceeds Rs. 100 and does not exceed Rs. 200;	Three rupees.°

Description of Instrument	Proper Stamp Duty
where it exceeds Rs. 200 and does not exceed Rs. 300;	Four rupees fifty naye paise.*
where it exceeds Rs. 300 and does not exceed Rs. 400;	Six rupees.*
where it exceeds Rs. 400 and does not exceed Rs. 500;	Seven rupees fifty naye paise.*
where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees.*
where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten rupees fifty naye paise.*
where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve rupees.*
where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees fifty naye paise.*
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees.*
and for every Rs. 500 or part thereof in excess of Rs. 1,000. ..	Seven rupees fifty naye paise.*

[*] These rates are increased by one and a half times, w. e. f. 10-9-1962, by T. N. Act VIII of 1962.

17. CANCELLATION.— Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Twenty-two rupees fifty paise.*
18. CERTIFICATE OF SALE.— (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—	
(a) where the purchase-money does not exceed Rs. 10;	Sixty naye paise.*
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;	One rupees fifteen naye paise.
(c) in any other case	The same duty as a Conveyance (No. 23) for [market value]*, equal to the amount of the purchase-money only.

[*] Substituted for 'consideration' by T. N. Act 24 of 1967, S. 10 (w. e. f. 22-4-1968).

19. CERTIFICATE or other document evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate or to become proprietor of shares, scrip or stock in or of any such company or body	Thirty naye paise.
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not	Four rupees, fifty naye paise.
20A. CHITTY agreement, that is an agreement relating to a chitty as defined in *[clause (3) of section 2 of the Madras Chit Funds Act, 1961], if either such agreement is executed or *[the chit is conducted in the State of Madras.]	One rupee fifty paise.

[*] Substituted by Mad. Act XXIV of 1961, S. 67.

22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Thirty-three rupees seventy-five naye paise.

Description of Instrument	Proper Stamp Duty
23. CONVEYANCE °[as defined by sec. 2 (10)], not being a Transfer charged or exempted under No. 62—	
where the †[market value of the property which is the subject-matter of conveyance does not exceed Rs. 50;]	One rupee fifty naye paise.‡
where it exceeds Rs. 50 but does not exceed Rs. 100;	Three rupees.‡
where it exceeds Rs. 100 but does not exceed Rs. 200;	Six rupees.‡
where it exceeds Rs. 200 but does not exceed Rs. 300;	Nine rupees.‡
where it exceeds Rs. 300 but does not exceed Rs. 400;	Twelve rupees.‡
where it exceeds Rs. 400 but does not exceed Rs. 500;	Fifteen rupees.‡
where it exceeds Rs. 500 but does not exceed Rs. 600;	Eighteen rupees.‡
where it exceeds Rs. 600 but does not exceed Rs. 700;	Twenty-one rupees.‡
where it exceeds Rs. 700 but does not exceed Rs. 800;	Twenty-four rupees.‡
where it exceeds Rs. 800 but does not exceed Rs. 900 ;	Twenty-seven rupees.‡
where it exceeds Rs. 900 but does not exceed Rs. 1,000	Thirty rupees.‡
and for every Rs. 500 or part thereof in excess of Rs. 1,000	Fifteen rupees.‡
Exemption	
Assignment of copyright under the Copyright Act, 1957, section 18.	

[*] For increase by a surcharge at a rate not exceeding five per cent. on the amount of the consideration as set forth in the instrument of sale of immovable property situated within the local limits specified in the respective Acts, see the Madras City Municipal Act, 1919 (Mad. IV of 1919), S. 135; the Madras District Municipalities Act, 1920 (Mad. V of 1920), S. 116A; and the Madras District Boards Act, 1920 (Mad. XIV of 1920), S. 110A.

[†] Substituted for certain words by T. N. Act 24 of 1967, S. 10 (w. e. f. 22-4-1968).

[‡] This is now subject to an increase of one and a half times under T. N. Act VIII of 1962, S. 2 (10-9-1962).

24. COPY or EXTRACT, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees—	
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee;	Two rupees twenty-five paise.
(ii) in any other case	Four rupees, fifty paise.
Exemptions.	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART or DUPLICATE of any instrument, chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed four rupees fifty naye paise.*	The same duty as is payable on the original.
(b) in any other case	Four rupees fifty paise.*

Description of Instrument	Proper Stamp Duty
Exemption Counterpart of any lease granted to a cultivator, when such lease is exempted from dutv.	

[°] Substituted by T. N. Act VIII of 1962, S. 4 (10-9-1962).

26. CUSTOMS-BOND— (a) where the amount does not exceed Rs. 1,000; (b) in any other case	The same duty as a Bottomry Bond (No. 16) for such amount. Thirty rupees.
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling anv person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twentv rupees.	Fifteen naye paise.
29. DIVORCE.— Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Four rupees, fifty paise.
30. ENTRY AS AN ADVOCATE OR ATTORNEY ON THE ROLL OF THE MADRAS HIGH COURT, under the Indian Bar Councils Act, 1926, or in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1879— (a) in the case of an Advocate .. .. (b) in the case of any Attorney .. .. Exemptions. (a) Entry as an Advocate on the roll of the Madras High Court when he has been previously enrolled as a Vakil in the same High Court or as an Advocate or Vakil in any other High Court. (b) Entry as an Attorney on the roll of the Madras High Court when he has been previously enrolled as an Advocate or Vakil in the same High Court or as an Advocate, Vakil or Attorney in any other High Court.	Six hundred and twenty five rupees, or if previously enrolled as an Attorney in the same or any other High Court, three hundred and twelve rupees fifty naye paise. Three hundred and twelve rupees fifty naye paise.
31. EXCHANGE OF PROPERTY.°— Instrument of	†[The same duty as a Conveyance (No. 23) for a market value equal to the market value of the property ot greater value which is the subject-matter of exchange.]

[°] For increase by a surcharge on the value of the property of the greater value as set forth in the instrument, see the Madras Acts mentioned in foot-note [°] under Art. 23.

[†] Substituted for certain words by T. N. Act 24 of 1967, S. 10 (w. e. f. 22-4-1968).

32. FURTHER CHARGE.— Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in cl. (a) of Article 40 (that is, with possession);	The same duty as a Conveyance (No. 23), for a [market value]° equal to the amount of the further charge secured by such instrument.

Description of instrument	Proper Stamp Duty
(b) when such mortgage is one of the description referred to in clause (b) of Article 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument; ..	The same duty as a Conveyance (No. 23), for a [market value]* equal to the total amount of the charge (including the original mortgage and any further charge already made). less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given ..	The same duty as a Bottomry Bond (No. 16) for the amount of the further charge secured by such instrument.

[*] Substituted for 'consideration' by T. N. Act 24 of 1967, S. 10 (w. e. f. 22-4-1968).

33. GIFT°.—Instrument of, not being a Settlement (No. 58), or Will or Transfer (No. 62).	†[The same duty as a Conveyance (No. 23) for a market value equal to the market value of the property which is subject-matter of gift.]

[*] For increase by a surcharge on the value of the property as set forth in the instrument, see the Madras Acts mentioned in footnote [*] under Art. 23.

[†] Substituted for "consideration" by T. N. Act 24 of 1967, Section 10 (with effect from 22-4-1971).

34. INDEMNITY BOND ..	The same duty as a Security Bond (No. 57) for the same amount.
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bottomry Bond (No. 16) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year, but not more than five years;	The same duty as a Bottomry Bond (No. 16) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;	The same duty as a Conveyance (No. 23) for a [market value]† equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years;	The same duty as a Conveyance (No. 23) for a [market value]† equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years;	The same duty as a Conveyance (No. 23) for a [market value]† equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;	The same duty as a Conveyance (No. 23) for a [market value]† equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity°;	The same duty as a Conveyance (No. 23) for a [market value]† equal to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a [market value]† equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a [market value]† equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved;	The same duty as a Conveyance (No. 23) for a [market value]† equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition

Description of Instrument	Proper Stamp Duty
	to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed [two rupees twenty-five paise]‡.
Exemption Lease executed in the case of a cultivator and for the purpose of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. **Explanation.**—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	Thirty naye paise.
38. **LETTER OF LICENCE**, that is to say, any agreement between a debtor and his creditors that the latter shall for a specified time suspend their claims and allow the debtor to carry on business at his own discretion.	Thirty-three rupees seventy-five naye paise.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under the Companies Act, 1956;	Ninety rupees.
(b) if not accompanied ..	Two hundred and forty rupees.
Exemption Memorandum of any association not formed for profit and registered under the Companies Act, 1956.	
40. **MORTGAGE DEED,** not being an agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56) or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property* comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a [market value]† equal to the amount secured by such deed.

[°] For increase by way of surcharge on a lease in perpetuity of immovable property, see the Madras District Municipalities Act, 1920 (Mad. V of 1920), Section 116-A and the Madras Local Boards Act, 1920 (Mad. XIV of 1920), S. 110-A.

[†] Substituted for "consideration" by T. N. Act 24 of 1967, Section 10 (with effect from 22-4-1968).

[‡] Substituted for "one rupee fifty naye paise" by T. N. Act VIII of 1962, Section 2 (10-9-1962).

Description of Instrument	Proper Stamp Duty
(b) when possession is not given or agreed to be given as aforesaid:	The same duty as a Bottomry Bond (No. 16) for the amount secured by such deed.
Explanation.—A mortgagor who gives or has given to the mortgagee a power-of-attorney to collect rents, or gives or has given to the mortgagee a lease, of the property mortgaged or part thereof, is deemed to give possession thereof within the meaning of this article;	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Two rupees twenty-five paise.‡
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Two rupees twenty-five paise.‡
Exemptions	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	

[*] For increase by way of surcharge on mortgage with possession, see the Madras Acts mentioned in foot-note [*] under Art. 23.

[†] Substituted for "consideration" by T. N. Act 24 of 1967, Section 10 (with effect from 22-4-1968).

[‡] Substituted for "one rupee fifty paise" by T. N. Act VIII of 1972, Section 2 (10-9-1962).

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Twenty-five naye paise.*
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Twenty-five naye paise.*
(b) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Forty naye paise.*
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Forty naye paise.*

[°] This is subject to an increase of 1 1/2 times under T. N. Act VIII of 1962, Section 2 (10-9-1962).

42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of	Three rupees forty paise.

Description of Instrument	Proper Stamp Duty
his office, or by any other person lawfully acting as a Notary Public.	
43. NOTE OR MEMORANDUM SENT by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Sixty naye paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of forty-five rupees for every Rs. 10,000 or part thereof of the value of the stock or security.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	One rupee fifty paise.
45. PARTITION — Instrument of [as defined by section 2 (15)] .	The same duty as a Bottomry Bond (No. 16) for the amount of the value of the separated share or shares of the property. **N. B.**—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee fifty naye paise. *[(b) where land is held on Revenue Settlement and paying the full assessment, or is an inam land assessed under the Madras Inams (Assessment) Act, 1956 (T. N. Act 40 of 1956), the value for the purpose of duty shall be calculated at twenty-five times the annual revenue;] (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee fifty naye paise.
46. PARTNERSHIP—	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 500.	Fifteen rupees.
(b) in any other case.	Sixty rupees.
B.—Dissolution of.	Thirty rupees.
48. POWER-OF-ATTORNEY as defined by section 2 (21) not being a Proxy—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for ad-	One rupee twenty-five naye paise.

[*] Substituted for former clause (b) by T. N. Act 24 of 1967, Section 10 (with effect from 22-4-1968).

Description of Instrument	Proper Stamp Duty
mitting execution of one or more such documents;	
(b) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	Two rupees twenty-five naye paise.
(c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Sixteen rupees ninety paise.
(d) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty-three rupees seventy-five naye paise.
(e) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) for a market value equal to the amount of the consideration.*
(f) in any other case.	Three rupees forty paise for each person authorized.
	N. B.—The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908 (Central Act XVI of 1908).
Explanation.—For the purposes of this article, more persons than one when belonging to the same firm shall be deemed to be one person.	

[*] Substituted for former entry by T. N. Act 24 of 1967, S. 10 (with effect from 22-4-1968).

50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Two rupees.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn by him with a view to the adjustment of losses or the calculation of averages and every declaration in writing made by him against the characters or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	Three rupees.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	*The same duty as a Conveyance (No. 23) for a market value equal to the amount of such consideration as set forth in the reconveyance.
(b) in any other case.	Forty-five rupees.

[*] Substituted by T. N. Act 24 of 1967, Section 10 (22-4-1968).

55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the release.
(b) in any other case.	Twenty-two rupees fifty paise.

Description of Instrument	Proper Stamp Duty
56. **RESPONDENTIA BOND,** that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bottomry Bond (No. 16) for the amount of the loan secured.
57. **SECURITY BOND OR MORTGAGE DEED,** executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract— (a) when the amount secured does not exceed Rs. 1,000; (b) in any other case. **Exemptions** Bond or other instrument, when executed— (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per mensem; (b) executed by persons taking advances under the Land Improvement Loans Act, 1833, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (c) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	The same duty as a Bottomry Bond (No. 16) for amount secured. Twenty-two rupees fifty paise.
58. **SETTLEMENT—** A. Instrument of (including a deed of dower). **Exemption** Deed of dower executed on the occasion of a marriage between Muhammadans. B. Revocation of.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed two rupees, twenty-five paise. The same duty as a Bottomry Bond (16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding forty-five rupees.
59. **SHARE WARRANTS** to bearer issued under the Companies Act, 1956. **Exemptions** Share warrant when issued by a company in pursuance of the Companies Act, 1956, to have effect only upon payment, as composition for that duty, to the Collector of Stamp Revenue of— (a) one-and-a-half per centum of the whole subscribed capital of the company; or	One-and-a-half times the duty payable on a Conveyance (No. 23) for a [market value]* equal to the nominal amount of the shares specified in the warrant.

Description of Instrument	Proper Stamp Duty
(b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital, one-and-a half per centum of the additional capital so issued.	

[*] Substituted for "consideration" by T. N. Act VIII of 1962, Section 2 (10-9-1962).

60. SHIPPING — Order for or relating to the conveyance of goods on board of any vessel.	Fifteen naye paise
61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed twenty-two rupees fifty naye paise;*	The duty with which such lease is chargeable.
(b) in any other case.	Twenty-two rupees fifty naye paise.*
Exemption	
Surrender of lease, when such lease is exempted from duty.	

[*] Substituted for "fifteen rupees" by T. N. Act VIII of 1962, Section 4 (10-9-1962).

62. TRANSFER (whether with or without consideration)—	
(a) * * * * *	
(a) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One rupee fifteen naye paise for every hundred rupees or part thereof for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage deed or policy of insurance—	
(i) if the duty on such bond, mortgage deed or policy does not exceed twenty-two rupees fifty naye paise†;	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case.	Twenty-two rupees fifty naye paise.*
(d) of any property under the Administrator-General's Act, 1913, section 25;	Thirty-three rupees seventy-five naye paise.†
(e) of any trust property from one trustee to another trustee or from a trustee to a beneficiary.	Sixteen rupees ninety naye paise or such smaller amount as may be chargeable under clauses (b) and (c) of this article.

[*] Substituted by T. N. Act VIII of 1962, Section 2 (10-9-1962).

[†] Substituted ibid, S. 4 (10-9-1962).

63. TRANSFER OF LEASE by way of assignment, and not by way of underlease.	The same duty as a Conveyance (No. 23) for a [market value]* equal to the amount of the consideration for the transfer.
Exemptions	
The transfer of any lease exempt from duty.	

[*] Substituted for "consideration" by T. N. Act 24 of 1967, Section 10 (22-4-1968).

64. TRUST—	
A. Declaration of — of, or concerning any property when made by any writing not being a Will;	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding forty-five rupees.
B. Revocation of — of, or concerning, any property when made by any instrument other than a Will.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding thirty rupees.
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns; or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	One rupee fifteen naye paise.

TRIPURA

Note.—On the merger of the State of Tripura, the State was administered since 1950 as a Chief Commissioner's Province of Tripura. Under the Constitution of India it was a Union territory. Tripura is a full-fledged State now under Act 81 of 1971, Section 4, with effect from 21-1-1972.

The Indian Stamp Act, 1899, was extended to the State of Tripura by section 3 of the Union Territories (Laws) Act, 1950. However, the present position is as provided in section 5 of the Union Territories (Stamp and Court-fees Laws) Act, 1961 (XXXIII of 1961). That section is as follows:—

"**5. Repeal of Indian Stamp Act, 1899, as in force in Tripura.**—(b) On the date on which the Indian Stamp Act, 1899, as in force in the State of Assam, is extended to the Union territory of Tripura by notification under section 2* of the Union Territories (Laws) Act, 1950, the Indian Stamp Act, 1899, as in force in that Union territory immediately before the date of such notification, shall stand repealed."

[*] See G.S.R. 1122, d. 29-6-1963, which extends the Act as in Assam with effect from 15-7-1963—Gaz. of Ind., 1963, Pt. II, Section 3 (i), p. 603 et seq. Stamp duties levied and collected during the period of 16-4-1950 to 15-3-1963 have been validated by Section 6 of Act XXXIII of 1961.

SCHEDULE I-A

ANDAMAN AND NICOBAR

After Schedule I to the principal Act, the following Schedule I-A is inserted by Section 13 of the Indian Stamp (Andaman and Nicobar Islands Amendment) Regulation, 1957 (Regn. III of 1957). The Regulation came into force on the 1st day of August, 1957. The Schedule I-A given below is as amended by Regn. I of 1961.

"SCHEDULE I-A

Stamp Duty on Certain Instruments under the Indian Stamp (Andaman and Nicobar Islands Amendment) Regulation, 1957

(See section 3, first proviso)

(Note.—The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I.)

Description of Instrument (1)	Proper Stamp Duty (2)
1. * * * *	* * * * *
2. ADMINISTRATION BOND, including a bond given under S. 6 of the Government Savings Banks Act, 1873, or section 291 or section 375 or section 376 of the Indian Succession Act, 1925— (a) where the amount does not exceed Rs. 1,000; (b) in any other case	 The same duty as a Bond (No. 15) for such amount. Ten rupees.
3. ADOPTION-DEED, that is to say, any instrument other than a will) recording an adoption, or conferring or purporting to confer an authority to adopt.	Twenty rupees.
ADVOCATE. See ENTRY AS AN ADVOCATE (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Two rupees.

Description of Instrument	Proper Stamp-duty.
Exemptions Affidavit or declaration in writing when made— (a) as a condition of enlistment under the Air Force Act, 1950, or the Army Act, 1950; (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT— (a) if relating to the sale of a bill of exchange;	Twenty-five naye paise.
*[(b) (i) if relating to the sale of a Government security;	Subject to a maximum of twenty rupees, fifteen naye paise for every Rs. 10,000 or part thereof, of the value of the security.
(ii) if relating to the sale of a share in an incorporated company or other body corporate;	Fifteen naye paise for every Rs. 5,000 or part thereof, of the value of the share.]
(c) if not otherwise provided for	One rupee.
Exemptions Agreement or memorandum of agreement— (a) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43; (b) made in the form of tenders to the Central Government for or relating to any loan.	
[*] Substituted for former cl. (b) by Reg. I of 1961, S. 2 (b) (21-1-1961).	
AGREEMENT TO LEASE. See LEASE (No. 35).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to— (1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or (2) the pawn or pledge of moveable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	

				If drawn singly		If drawn in set of two, for each part of the set		If drawn in set of three, for each part of the set	
				Rs.	naye paise	Rs.	naye paise	Rs.	naye paise
*[(i) when the amount of the loan or debt does not exceed			Rs. 200	0	30	0	20	0	10
(ii) when it exceeds Rs. 200 but does not exceed			400	0	60	0	30	0	20
Ditto	400	ditto	600	0	85	0	50	0	30
Ditto	600	ditto	800	1	15	0	60	0	40
Ditto	800	ditto	1,000	1	45	0	75	0	50
Ditto	1,000	ditto	1,200	1	70	0	85	0	60
Ditto	1,200	ditto	1,600	2	25	1	15	0	75
Ditto	1,600	ditto	2,500	3	40	1	70	1	15
Ditto	2,500	ditto	5,000	6	75	3	40	2	25

Description of Instrument	Proper Stamp-duty		
	If drawn singly	If drawn in set of two for each part of the set	If drawn in set of three for each part of the set
	Rs. N. P.	Rs. N. P.	Rs. N. P.
Ditto 5,000 ditto 7,500	10 0	5 10	3 40
Ditto 7.500 ditto 10,000	13 50	6 75	4 50
Ditto 10,000 ditto 15,000	20 25	10 15	6 75
Ditto 15,000 ditto 20,000	27 0	13 50	9 0
Ditto 20.000 ditto 25,000	33 75	16 90	11 25
Ditto 25,000 ditto 30,000	40 50	20 25	13 50
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	13 50	6 75	4 50]
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.		

[*] Substituted by Reg. I of 1961, S. 2 (b) (21-1-1961).

7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a will. — Twenty-five rupees.

8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—

(a) where the amount does not exceed Rs. 1,000; — The same duty as a Bottomry Bond (No. 16) for such amount.

(b) in any other case. — Ten rupees.

Exemptions

(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11). — Ten rupees.

Exemption

Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.

10. ARTICLES OF ASSOCIATION OF A COMPANY—

(a) where the nominal share capital does not exceed one lakh of rupees; — Fifty rupees.

(b) where the nominal share capital exceeds one lakh of rupees. — One hundred rupees.

Exemption

Articles of any Association not formed for profit and registered under section 25 of the Companies Act, 1956.

See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).

11. * * * *

ASSIGNMENT. See CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.

Description of instrument (1)	Proper stamp-duty (2)
ATTORNEY. See ENTRY AS IN ATTORNEY (No. 30) and POWER-OF-ATTORNEY (No. 48).	
AUTHORITY TO ADOPT. See ADOPTION-DEED (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference being made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates as set forth in such award, does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Ten rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	Fifty naye paise subject to a maximum of fifty rupees.
Exemption	
Award under the Bombay District Municipal Act, 1901, section 160, or the Bombay Hereditary Offices Act, 1874, section 18.	
13. * * * * *	* * * * * *
14. BILL OF LADING [Omitted by Reg. I of 1961, S. 2 (b) (iii) (21-1-1961).]	
15. BOND [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870—	
where the amount or value secured does not exceed Rs. 10;	*[Fifteen] naye paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Twenty-five naye paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	Fifty naye paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	One rupee.
where it exceeds Rs. 200 and does not exceed Rs. 300;	One rupee *[ninety] naye paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Three rupees seventy-five naye paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Four rupees fifty naye paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Five rupees twenty-five naye paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Six rupees seventy-five naye paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Seven rupees fifty naye paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Three rupees seventy-five naye paise.
See ADMINISTRATION-BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).	
Exemptions	
Bond, when executed by—	
(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99,	

Description of instrument (1)	Proper stamp-duty (2)
for the due performance of their duties under that Act;	
(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.	

[*] Substituted for "Twelve" and "Eighty-seven" respectively by Reg. I of 1961, S. 2 (b) (iv) (21-1-1961).

16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10;	*[Twenty] naye paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	*[Forty] naye paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	Seventy-five naye paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	One rupee fifty naye paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Two rupees twenty-five naye paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Three rupees seventy-five naye paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Four rupees fifty naye paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Five rupees twenty-five naye paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Six rupees seventy-five naye paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Seven rupees fifty naye paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Three rupees seventy-five naye paise.

[°] Substituted for "Nineteen" and "Thirty-seven" respectively by Reg. I of 1961, S. 2 (b) (v) (21-1-1961).

17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Seven rupees fifty naye paise.
See also RELEASE (No. *55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or other Revenue Officer—	
(a) where the purchase-money does not exceed Rs. 10;	Twenty-five naye paise.
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;	Fifty naye paise.
(c) in any other case.	The same duty as a Conveyance (No. 23), for a consideration equal to the amount of the purchase-money only.

Description of instrument (1)	Proper stamp-duty (2)
19. * * * * *	* * *
20. **CHARTER-PARTY,** that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Two rupees.
21. * * * * *	* * *
22. **COMPOSITION-DEED,** that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Twenty rupees.
23. **CONVEYANCE** [as defined by section 2 (10)] not being a TRANSFER charged or exempted under No. 62—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Seventy-five naye paise.
where it exceeds Rs. 50 but does not exceed Rs. 100;	One rupee fifty naye paise.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Three rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Four rupees fifty naye paise.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Six rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Seven rupees fifty naye paise.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Nine rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Ten rupees fifty naye paise.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Twelve rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Thirteen rupees fifty naye paise.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees fifty naye paise.
Exemption Assignment of copyright under the Indian Copyright Act, 1914.*	
[*] See now the Copyright Act, 1957 (XIV of 1957), S. 18.	
CO-PARTNERSHIP-DEED. See PARTNERSHIP (No. 46).	
24. **COPY OR EXTRACT,** certified to be a true copy or extract by or by order of any public officer had not chargeable under the law for the time being in force relating to Court-fees—	
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee;	One rupee.
(ii) in any other case not falling within the provisions of sec. 6A.	Two rupees.

Description of instrument (1)	Proper stamp-duty (2)
Exemptions (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose. (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid— (a) if the duty with which the original instrument is chargeable does not exceed two rupees; (b) in any other case not falling within the provisions of section 6A.	The same duty as is payable on the original. Two rupees.
Exemption Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS BOND— (a) where the amount does not exceed Rs. 1,000; (b) in any other case.	The same duty as a Bottomry Bond (No. 16) for such amount. Ten rupees.
27. * * * *	* * *
DECLARATION OF ANY TRUST. See TRUST (No. 64).	
28. * * * *	* * *
DEPOSIT OF TITLE-DEEDS. See AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).	
DISSOLUTION OF PARTNERSHIP. See PARTNERSHIP (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Five rupees.
DOWER—Instrument of. See SETTLEMENT (No. 58).	
DUPLICATE. See COUNTERPART (No. 25).	
30. ENTRY AS AN ADVOCATE, VAKIL OR **ATTORNEY ON THE ROLL OF ANY HIGH COURT,** under the Indian Bar Councils Act, 1926, or in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884— (a) in the case of an advocate or vakil; (b) in the case of an attorney.	Seven hundred and fifty rupees. Five hundred rupees.
Exemption Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	
31. EXCHANGE OF PROPERTY — Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. See COPY (No. 24).	
32. FURTHER CHARGE — Instrument of that is to say, any instrument imposing a further charge on mortgaged property— (a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.

Description of Instrument (1)	Proper stamp-duty (2)
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT — Instrument of, not being a SETTLEMENT (No. 58), OR WILL OR TRANSFER (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT or agreement for service. See AGREEMENT (No. 5).	
34. INDEMNITY BOND.	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP-DEED. See COMPOSITION-DEED (No. 22).	
35. LEASE, including an underlease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bottomry Bond (No. 16) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than five years;	The same duty as a Bottomry Bond (No. 16) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years but not exceeding ten years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years but not exceeding twenty years;	The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years but not exceeding thirty years;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years but not exceeding one hundred years;	The same duty as a Conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth, and in any other case to one-sixth, of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

Description of Instrument (1)	Proper stamp-duty (2)
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed seventy-five naye paise.
Exemption. Lease executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank. Explanation.— When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
36. * * *	
37. * * *	
LETTER OF GUARANTEE. See AGREEMENT (No. 5).	
38. **LETTER OF LICENCE,** that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Fifteen rupees.
39. **MEMORANDUM OF ASSOCIATION** OF A COMPANY—	
(a) if accompanied by articles of association under section 26 of the Companies Act, 1956;	Thirty rupees.
(b) if not so accompanied—	
(i) where the nominal share capital does not exceed one lakh of rupees;	Eighty rupees.
(ii) where the nominal share capital exceeds one lakh of rupees.	One hundred and thirty rupees.
Exemption. Memorandum of any association not formed for profit and registered under section 25 of the Companies Act, 1956.	
40. **MORTGAGE-DEED,** not being an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6), BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND	

Description of Instrument (1)	Proper stamp-duty (2)
(No. 56), OR SECURITY BOND (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given:	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.— A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this Article.	
(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000; and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Seventy-five naye paise. One rupee.
Exemptions	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances. (2) Letter of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
or every sum secured not exceeding Rs. 200; and for every Rs. 200 or part thereof secured in excess of Rs. 200;	*[Ten] naye paise. *[Ten] naye paise.
(b) when the loan is repayable more than three months but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100; and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Twenty-five naye paise. Twenty-five naye paise.
[*] Substituted, for "nine" by Reg. I of 1961, S. 2 (b) (vi) (21-1-1961).	
42. NOTARIAL ACT, that is to say any instrument endorsement; note, attestation, certificate, or entry not being a PROTEST (No. 50), made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	Two rupees.
See also PROTEST OF BILL OR NOTE (No. 50).	
43. NOTE OR MEMORANDUM, sent by a broker or agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Twenty-five naye paise.

Description of Instrument (1)	Proper Stamp Duty (2)
(b) of any stock or marketable security exceeding in value twenty rupees but not being a Government security;	*[Fifteen] naye paise for every Rs. 5,000 or part thereof of the value of the stock or security.
(c) of a Government security.	Subject to a maximum of twenty rupees, *[fifteen] naye paise for every Rs. 10,000 or part thereof of the value of the security.

[*] Substituted for "twelve" by Reg. I of 1961, S. 2 (b) (vii) (21-1-1961).

44. NOTE OF PROTEST BY THE MASTER OF A SHIP.

See also PROTEST BY THE MASTER OF A SHIP (No. 51).

One rupee.

* * * *

45. PARTITION—Instrument of [as defined by section 2 (15)].

The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.

N. B.— The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee;

(b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue;

(c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee.

46. PARTNERSHIP—

A.—INSTRUMENT OF—

(a) where the capital of the partnership does not exceed Rs. 500;

Five rupees.

(b) in any other case.

Twenty rupees.

B.—DISSOLUTION OF—

Ten rupees.

PAWN OR PLEDGE, See AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).

47. * * * *

48. POWER-OF-ATTORNEY [as defined by section 2 (21)], not being a **PROXY**—

(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a

One rupee.

Description of Instrument (1)	Proper Stamp Duty (2)
single transaction or for admitting execution of one or more such documents;	
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	One rupee.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in cl. (a);	Two rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Twenty rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(g) in any other case.	Two rupees for each person authorised. N.B.—The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1908.
Explanation.— For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
49. * * *	
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.	Two rupees.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloadin the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	Two rupees.
52. * * * * * *	
53. * * * * * *	
54. RE-CONVEYANCE OF MORTGAGED PROPERTY— (a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.
(b) in any other case.	Fifteen rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A), whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the release.
(b) in any other case.	Ten rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a	The same duty as a Bottomry Bond (No. 16) for the amount of the loan secured.

Description of Instrument (1)	Proper Stamp Duty (2)
ship and making repayment contingent on the arrival of the cargo at the port of destination.	
REVOCATION OF ANY TRUST OR SETTLEMENT. See SETTLEMENT (No. 58); TRUST (No. 64).	
57. SECURITY BOND OR MORTGAGE DEED, executed by way of security for the due discharge of a liability, or for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract— (a) when the amount secured does not exceed Rs. 1,000; (b) in any other case. **Exemptions** Bond or other instrument when executed— (a) by headman nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act; (b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility shall not be less than a specified sum per mensem; (c) under No. 3-A of the rules made by the State Government of Bombay, under section 70 of the Bombay Irrigation Act, 1879; (d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (e) executed by servants of the Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	**The same duty as a Bond (No. 15) for the amount secured.** **Two rupees.**
58. SETTLEMENT— A.—INSTRUMENT OF (including a deed of dower).	**The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property settled as set forth in such settlement.** **Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee.**
Exemption Deed of dower executed on the occasion of a marriage between Muhammadans.	
* * * * * *	* * * * * *
B.—REVOCATION OF—	**The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of revocation, but not exceeding fifteen rupees.**
See also TRUST (No. 64).	

Description of Instrument (1)	Proper Stamp Duty (2)
59. SHARE WARRANTS to bearer issued under the Companies Act, 1956. **Exemption** Share warrant when issued by a company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment as composition for that duty, to the Collector of Stamp-Revenue of— (a) one and a half per centum of the whole subscribed capital of the company; or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—One and a half per centum of the additional capital so issued.	One and a half times the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the share specified in the warrant.
60. * * * * *	* * * * * *
61. SURRENDER OF LEASE— (a) when the duty with which the lease is chargeable does not exceed seven rupees fifty naye paise; (b) in any other case. **Exemption** Surrender of lease, when such lease is exempted from duty.	The duty with which such lease is chargeable. Seven rupees fifty naye paise.
62. TRANSFER (whether with or without consideration)— * * * * * * (b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8; (c) of any interest secured by a bond, mortgage-deed in respect of which duty has been paid under Art. 40 or policy of insurance— (i) if the duty on such bond, mortgage deed or policy does not exceed five rupees; (ii) in any other case; (d) of any property under the Administrator-General's Act, 1913, section 25;* (e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary. **Exemptions** Transfers by endorsement— (a) of a bill of exchange, cheque or promissory note; (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods; (c) of a policy of insurance. (d) of securities of the Central Government. See also section 8.	* * * * * * One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture. The duty with which such bond, mortgage deed or policy of insurance is chargeable. Ten rupees. Fifteen rupees. Seven rupees fifty naye paise or such smaller amount as may be chargeable under clause (a) of Article 62 in Schedule I and clauses (b) and (c) of this Article.
63. TRANSFER OF LEASE by way of assignment, and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.

[*] Now see the Administrators-General Act, 1963 (45 of 1963).

Description of Instrument (1)	Proper Stamp-duty (2)
Exemption Transfer of any lease exempt from duty	
64. TRUST— A.—DECLARATION OF — of, or concerning, any property when made by any writing not being a WILL.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument but not exceeding twenty-two rupees fifty naye paise
B.—REVOCATION OF — of, or concerning any property when made by any instrument other than a WILL.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding fifteen rupees.
See also SETTLEMENT (No. 58). VALUATION. See APPRAISEMENT (No. 8). VAKIL. See ENTRY AS A VAKIL (No. 30).	
65. WARRANT FOR GOODS, that is to say, instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Fifty naye paise."

ANDHRA PRADESH

Note.—By virtue of section 3 of the Andhra State Act, 1953 (XXX of 1953), a new State known as the State of Andhra was formulated on and from the first day of October, 1953. This State of Andhra was carved out of the then State of Madras, in that, certain districts or portions thereof that were till then in the State of Madras were from the said date included in the State of Andhra (later on known as "Andhra area"). Section 53 of the said Act of 1953 kept in continuance the stamp law that applied immediately before the first date of October, 1953, to the territory now comprised in the State of Andhra. Thus, the principal Act, namely, the Indian Stamp Act, 1899 (II of 1899), as amended or affected, from time to time, by the State Legislature of Madras up to the said date, continued to apply to the State of Andhra, until otherwise provided by a competent Legislature or other competent authority.

In the year 1956, the State of Andhra was, along with other States of India, reorganised. Section 3 of the States Reorganisation Act, 1956 (XXXVII of 1956), transferred, on the 1st day of November, 1956, to the State of Andhra certain territories specified in that section from the then Part B State of Hyderabad. To the area so added (known as "Telangana area") the Hyderabad Stamp Act, 1331 F. (Hyd. IV of 1331 F.), as amended from time to time, continued, by virtue of section 119 of the States Reorganisation Act, 1956, to apply, until otherwise provided by a competent Legislature or other competent authority.

Thus in one and the same State of Andhra Pradesh (so named by the States Reorganisation Act, 1956, Section 8, after the reorganisation of the former State of Andhra), two distinct stamp laws continued to apply side by side: (1) the Andhra area was governed by the Indian Stamp Act, 1899, as amended or affected by the Madras Acts, while (2) in the Telangana area the Hyderabad Stamp Act, 1331 F. prevailed. This State of dichotomy in stamp law existed up to the 1st day of April, 1959, the date on which the Indian Stamp (Andhra Pradesh Extension and Amendment) Act, 1959 (Andh. Pra. XIX of 1959), was brought into force throughout the whole State of Andhra Pradesh with the object of providing for uniformity in the stamp law in the State. By S. 2 of the said Act the Indian Stamp Act as amended in its application till then to the Andhra area was extended to and brought into force in the Telangana area along with all the rules, regulations, notifica-

tion, etc., issued under the principal Act. Simultaneously with the extension of the principal Act, the Hyderabad Stamp Act, 1331 F., as in force in the Telangana area, was, subject to a saving clause, repealed.

The Madras Stamp (Increase of Duties) Act, 1943 (Mad. XVI of 1943), which had, during its continuance, the effect in the Madras area of the State of Andhra Pradesh of increasing the stamp duty chargeable under certain articles specified therein, is repealed by section 13 of the said Andhra Pradesh Act of 1959 with a direction that the provisions of section 8 of the Madras General Clauses Act, 1861, shall apply upon such repeal.

For Schedule I-A to the principal Act, which was inserted by Madras Act VI of 1922, a new Schedule I-A is substituted by section 10 of the said Act of 1959. The stamp duty chargeable on and from the 1st of April, 1959, throughout the whole State of Andhra Pradesh will now be one as directed under the articles in this new Schedule I-A.

The Schedule has been further amended by A. P. Acts XXVI of 1965; X of 1967; IX of 1971, Section 67; and XXII of 1971.

SCHEDULE I-A

Stamp Duty on certain Instruments under the Stamp (Andhra Pradesh Amendment) Act, 1922.

(See Section 3, first proviso)

Description of Instrument (1)	Proper Stamp Duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Ten naye paise.
2. ADMINISTRATION BOND including a bond given under section 291 or section 375 of the Indian Succession Act, 1925 or Section 6 of the Government Savings Bank Act, 1873 (Central Act V of 1873)—	
(a) where the amount does not exceed Rs. 1,000;	Three-fourths of the duty as a Bond (No. 13) for such amount.
(b) in any other case ..	Fifteen rupees.
3. ADOPTION DEED, that is to say, any instrument (other than a Will) recording an adoption, or conferring or purporting to confer an authority to adopt.	Twenty-two rupees fifty naye paise.
4. AFFIDAVIT including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Three rupees.
Exemptions	
°[Affidavit or declaration in writing when made for the sole purpose of enabling any person to receive any pension or charitable allowance.]	
(a) as a condition of enlistment under the Army Act, 1950;	

Schedule 1-A — Article 4 Note 1

(1) If the parties in statement of accounts that are to be filed under rules made under Andhra Pradesh General Sales Tax Act are filed in the form of affidavits, they are treated as affidavits and are required to be stamped under Article 4 of Sch 1A (A. P.) (1972) 29 STC 225 (228) (AP).

Description of Instrument (1)	Proper Stamp Duty (2)
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	

[°] Substituted by Andh. Pra. Act 26 of 1965, Section 2 (3-12-1965).

5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT— (a) if relating to the sale of a bill of exchange;	Forty naye paise.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of thirty rupees twenty naye paise for every Rs. 10,000 or part thereof, of the value of the security or share.
(c) if not otherwise provided for . .	One rupee fifty naye paise.
Exemptions Omitted by Andh. Pra. Act 26 of 1965, Section (ii) (3-12-1965).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to— (1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or (2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt— (a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement,—	

	If drawn singly	If drawn in set of two for each part of the set	If drawn In set of three for each part of the set
	Rs. nP.	Rs. nP.	Rs. nP.
(i) when the amount of the loan or debt does not exceed Rs. 200 ..	0 60	0 40	0 20
(ii) when it exceeds Rs. 200, but does not exceed Rs. 400 ..	1 15	0 60	0 40
when it exceeds Rs. 400, but does not exceed Rs. 600 ..	1 70	0 95	0 60
when it exceeds Rs. 600, but does not exceed Rs. 800 ..	2 25	1 15	0 75
when it exceeds Rs. 800, but does not exceed Rs. 1,000 ..	2 85	1 50	0 95
when it exceeds Rs. 1,000, but does not exceed Rs. 1,200 ..	3 40	1 70	1 15
when it exceeds Rs. 1,200, but does not exceed Rs. 1,600 ..	4 50	2 25	1 50

Schedule 1A — Article 6 Note 1

(1) Stamp duty paid on Agreement disputed by Revenue on the basis of an earlier Deed of Simple Mortgage — Earlier mortgage providing for payment of interest — Later Agreement stipulating payment of commission for managing agent and for renewal of agency for further periods even after discharge of mortgage — Mortgage and Managing Agency agreement cannot amount to usufructuary mortgage. **AIR 1964 Andh Pra 43 (44. 45) = (1963) 1 Andh WR 283 (SB).**

Description of Instrument (1)	Proper Stamp Duty (2)		
	If drawn singly	If drawn in set of two for each part of the set	If drawn In set of three for each part of the set
	Rs. nP.	Rs. nP.	Rs. nP.
when it exceeds Rs. 1,600, but does not exceed Rs. 2,500 ..	6 75	3 40	2 25
when it exceeds Rs. 2,500, but does not exceed Rs. 5,000 ..	13 50	6 75	4 50
when it exceeds Rs. 5,000, but does not exceed Rs. 7,500 ..	20 25	10 15	6 75
when it exceeds Rs. 7,500, but does not exceed Rs. 10,000 ..	27 00	13 50	9 00
when it exceeds Rs. 10,000, but does not exceed Rs. 15,000 ..	40 50	20 25	13 50
when it exceeds Rs. 15,000, but does not exceed Rs. 20,000 ..	54 00	27 00	18 00
when it exceeds Rs. 20,000, but does not exceed Rs. 25,000 ..	67 50	33 75	22 50
when it exceeds Rs. 25,000, but does not exceed Rs. 30,000 ..	81 00	40 50	27 00
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000 ..	27 00	13 50	9 00
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.		
Exemption Omitted by Andh. Pra. Act 26 of 1965, Section 2 (iii) (3-12-1965).			
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.	Thirty-seven rupees fifty naye paise.		
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of suit— (a) where the amount does not exceed Rs. 1,000; (b) in any other case ..	The same duty as a Bottomry Bond (No. 14) for such amount. Fifteen rupees.		
Exemptions Omitted by Andh. Pra. Act 26 of 1965, Section 2 (iv) (3-12-1965).			
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11).	Seven rupees fifty naye paise.		
Exemption Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by, or at the charge of, any public charity.			
10. ARTICLES OF ASSOCIATION OF A COMPANY.	One hundred rupees.		
Exemption Articles of any association not formed for profit and registered under the Companies Act, 1956. [See also Memorandum of Association of a Company (No. 34).]			

Description of Instrument (1)	Proper Stamp Duty (2)
14. ARTICLES OF CLERKSHIP OR CONTRACT.—Omitted by Andh. Pra. Act 26 of 1965 Section 2 (v) (3-12-1965).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Twenty rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee subject to a maximum of one hundred rupees.
13. BOND [as defined by section 2 (5)], not being a debenture and not being otherwise provided for by this Act, or by the Andhra Court-fees and Suits Valuation Act, 1956 (Andhra Act VII of 1956);	
where the amount or value secured does not exceed Rs. 10.	Twenty-five naye paise.
where it exceeds Rs. 10 and does not exceed Rs. 50.	Fifty naye paise.
where it exceeds Rs. 50 and does not exceed Rs. 100.	One rupee.
where it exceeds Rs. 100 and does not exceed Rs. 200.	Two rupees fifty naye paise.
where it exceeds Rs. 200 and does not exceed Rs. 300.	Three rupees seventy-five naye paise.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Five rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500.	Six rupees twenty-five naye paise.
where it exceeds Rs. 500 and does not exceed Rs. 600.	Nine rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700.	Ten rupees fifty naye paise.
where it exceeds Rs. 700 and does not exceed Rs. 800.	Twelve rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900.	Thirteen rupees fifty naye paise.
where it exceed Rs. 900 and does not exceed Rs. 1,000.	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees fifty naye paise.
Exemption	
Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.	
14. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10.	Forty naye paise.
where it exceeds Rs. 10 and does not exceed Rs. 50.	Seventy-five naye paise.
where it exceeds Rs. 50 and does not exceed Rs. 100.	One rupee fifty naye paise.
where it exceeds Rs. 100 and does not exceed Rs. 200.	Three rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
where it exceeds Rs. 200 and does not exceed Rs. 300.	Four rupees fifty naye paise.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Six rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500.	Seven rupees fifty naye paise.
where it exceeds Rs. 500 and does not exceed Rs. 600.	Nine rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700.	Ten rupees fifty naye paise.
where it exceeds Rs. 700 and does not exceed Rs. 800.	Twelve rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900.	Thirteen rupees fifty naye paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees fifty naye paise.
15. CANCELLATION.—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Fifteen rupees.
16. CERTIFICATE OF SALE.—(In respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or other Revenue Officer—	
(a) where the purchase-money does not exceed Rs. 10.	Forty naye paise.
(b) where the purchase money exceeds Rs. 10, but does not exceed Rs. 25.	Seventy-five naye paise.
(c) in any other case	The same duty as a Conveyance (No. 20) for a consideration *[or market value] equal to the amount of the purchase-money only.
17. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate or to become proprietor of shares, scrip or stock in or of any such company or body.	Twenty naye paise.
18. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Three rupees.
°[18A. CHIT AGREEMENT, that is to say, an agreement, relating to a chit as defined in clause (2) of section 2 of the A. P. Chit Funds Act, 1971, if either such agreement is executed or the chit is conducted in the State of Andhra Pradesh.]	One rupee.
19. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or	Twenty-two rupees fifty naye paise.

[*] Inserted by A. P. Act 22 of 1971, S. 6 (i).

[°] Inserted by A. P. Act 9 of 1971, S. 67 (1-7-1971).

Description of Instrument (1)	Proper Stamp-duty (2)
whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	
20. CONVEYANCE, *[as defined by sec. 2 (10)], not being a transfer charged or exempted under No. 53—	
†[where the amount or value of the consideration for such conveyance as set forth therein or the market value of the property which is the subject matter of the conveyance, whichever is higher,—does not exceed Rs. 50;]	One rupee fifty naye paise.
where it exceeds Rs. 50 but does not exceed Rs. 100;	Three rupees.
where it exceeds Rs. 100, but does not exceed Rs. 200;	Six rupees.
where it exceeds Rs. 200, but does not exceed Rs. 300;	Nine rupees.
where it exceeds Rs. 300, but does not exceed Rs. 400	Twelve rupees.
where it exceeds Rs. 400, but does not exceed Rs. 500;	Fifteen rupees.
where it exceeds Rs. 500, but does not exceed Rs. 600;	Eighteen rupees.
where it exceeds Rs. 600, but does not exceed Rs. 700;	Twenty-one rupees.
where it exceeds Rs. 700, but does not exceed Rs. 800;	Twenty-four rupees.
where it exceeds Rs. 800, but does not exceed Rs. 900;	Twenty-seven rupees.
where it exceeds Rs. 900, but does not exceed Rs. 1,000;	Thirty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Fifteen rupees.
Exemption — Omitted‡	

[*] In its application to Andhra Area of the State of Andhra Pradesh, for levy in the form of a surcharge on the stamp-duty imposed on an instrument of sale of immovable property, see the Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 (V of 1920), S. 116-A; and the Andhra Pradesh (Andhra Area) District Boards Act, 1920 (XIV of 1920), S. 110-A. And in its application to Telangana area of the said State, see the Hyderabad Municipal Corporations Act, 1955 (Hyd. II of 1956), S. 261; and the Andhra Pradesh (Telangana Area) District Municipalities Act, 1956 (XVIII of 1956), S. 106.

[†] Substituted by A. P. Act 22 of 1971, S. 6 (ii).

[‡] Omitted by A. P. Act 26 of 1965 S. 2 (vi) (3-12-1965).

21. COPY OR EXTRACT, certified to be a true copy or extract by the order of any	

Schedule 1A — Article 20 Note 1

(1) Compromise decree creating charge on property — Right to appropriate income towards decretal amount given — Owner prohibited from creating any charge on it — Power of attorney authorising such appropriation also required to be executed — Document so executed is only power of attorney and not mortgage with possession. **AIR 1968 Andh Pra 142 = (1967) 2 Andh LT 123 (FB).**

(2) Sale deed embodying the sale of a cinema house together with the machinery thereof but not including any interest in the site is a simple conveyance coming within the ambit of this Article. **AIR 1973 Andh Pra 48 (50) = (1973) 1 Andh WR 1 (FB).**

(3) Relinquishment by co-owner of his right in property in favour of other co-owner (on receiving amount contributed by him in purchasing joint property) is a release and not a conveyance. **(1973) 1 Andh WR 184 (188 to 190) (FB).**

Description of Instrument (1)	Proper Stamp-duty (2)
public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed °[two rupees thirty paise.]	One rupee fifty naye paise.
(ii) in any other case	Three rupees.
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(b) Copy of, or extract from, any register relating to births, baptisms namings, dedications, marriages, divorces, deaths or burials.	

[°] Substituted for 'one rupee' by A. P. Act 10 of 1967, S. 3 (4) (i) (20-10-1967).

22. COUNTERPART OR DUPLICATE OF ANY INSTRUMENT, chargeable with duty and in respect of which the proper duty has been paid—	
(a) If the duty with which the original instrument is chargeable does not exceed °[four rupees, fifty paise];	The same duty as is payable on the original.
(b) in any other case	°[Four rupees, fifty paise].
†Exemption—Omitted	

[°] Substituted by A. P. Act 10 of 1967, S. 3 (4) (ii) (20-10-1967).
[†] Omitted by A. P. Act 26 of 1965, S. 2 (vii) (3-12-1965).

23. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a Bottomry Bond (No. 14) for such amount.
(b) in any other case	Twenty rupees.
24. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port or any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty-rupees.	Ten naye paise.
25. DIVORCE.—Instrument, that is to say, any instrument by which any person effects the dissolution of his marriage.	Three rupees.
°[26. ENTRY AS AN ADVOCATE, on the roll of the Bar Council of Andhra Pradesh under the Advocates Act, 1961.	Two hundred and fifty rupees or if previously enrolled as an Attorney in any High Court one hundred and twenty-five rupees].
Exemption	
Entry as an advocate on the roll of Bar Council of Andhra Pradesh when he has been previously enrolled as a Vakil in A. P. High Court or as an advocate or vakil in any other High Court.	

[°] Substituted by A. P. Act 26 of 1965, S. 2 (viii) (3-12-1965).

27. EXCHANGE OF PROPERTY°— Instrument of.	†[The same duty as a Conveyance (No. 20) for a consideration or market value, equal to the market value of the property of greater value which is the subject-matter of exchange.]

[°] In its application to Andhra Area of the State of Andhra Pradesh, for levy in the form of a surcharge on the stamp duty imposed on an instrument of exchange of

Description of Instrument (1)	Proper Stamp-duty (2)
immovable property, see Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 (V of 1920), S. 116A; and Andhra Pradesh (Andhra Area) District Boards Act, 1920 (XIV of 1920), S. 110A. And in its application to Telangana Area of the said State, see the Hyderabad Municipal Corporations Act, 1955 (Hyd. II of 1956), S. 261, and the Andhra Pradesh (Telangana Area) District Municipalities Act, 1956 (XVIII of 1956), S. 106.	
[†] Substituted by A. P. Act 22 of 1971, S. 6 (iii).	
28. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in cl. (a) of Article 35 (that is, with possession).	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article 35 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given ..	The same duty as a Bottomry Bond (No. 14) for the amount of the further charge secured by such instrument.
[*] Substituted for the word 'consideration' by A. P. Act 22 of 1971, S. 6 (iv).	
29. GIFT*— Instrument of, not being a SETTLEMENT (No. 49) OR WILL OR TRANSFER (No. 53).	†[The same duty as a Conveyance (No. 20) for a consideration or market value equal to the market value of the property which is the subject matter of gift.]
[*] In its application to Andhra Area of the State of Andhra Pradesh, for levy in the form of a surcharge on the stamp-duty imposed on an instrument of gift of immovable property, see the Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 (V of 1920), S. 116A; and the Andhra Pradesh (Andhra Area) District Boards Act, 1920 (XIV of 1920), S. 110A. And in its application to Telangana Area of the said State, see the Hyderabad Municipal Corporations Act, 1955 (Hyd. II of 1956), S. 261; and the Andhra Pradesh (Telangana Area) District Municipalities Act, 1956 (XVIII of 1956), S. 106.	
[†] Substituted for original entry by A. P. Act 22 of 1971, S. 6 (v).	
30. INDEMNITY BOND ..	The same duty as a Security Bond (No. 48) for the same amount.
31. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bottomry Bond (No. 14) for the whole amount payable or deliverable under such lease.

Schedule 1A — Article 31 Note 1

(1) The word 'price' which is called 'premium' in Section 105 of the T. P. Act is money only and not any valuable consideration. The amount agreed to be invested by the lessee in the construction of a building on the premises leased as consideration for the lease is, therefore, not premium within the meaning of Article 31 (c) of the Stamp Act. **AIR 1967 Andh Pra 90 (94) = (1966) 1 Andh LT 307 (FB).**

Description of Instrument (1)	Proper Stamp-duty (2)
(ii) where the lease purports to be for a term of not less than one year, but not more than five years.	The same duty as a Bottomry Bond (No. 14) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity†;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee fifty naye paise.
‡Exemption—Omitted. **Explanation.**—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
32. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	Twenty naye paise.

[*] Substituted for "consideration" by Andh. Pra. Act 22 of 1971, Section 6 (vi).

[†] In its application to Andhra area of the State of Andhra Pradesh, for levy in the form of a surcharge on the stamp duty imposed on an instrument of lease in perpetuity of immovable property, see the Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 (V of 1920), Section 116-A; and the Andhra Pradesh (Andhra Area) District Boards Act, 1920 (XIV of 1920), Section 110-A.

[‡] Omitted by Andh. Pra. Act 26 of 1965, Section 2 (ix) (3-12-1965).

Description of Instrument (1)	Proper Stamp-duty (2)
33. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Twenty-two rupees, fifty naye paise.
34. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under the Companies Act, 1956;	Sixty rupees.
(b) if not so accompanied.	One hundred and sixty rupees.
Exemption	
Memorandum of any association not formed for profit and registered under the Companies Act, 1956.	
35. MORTGAGE DEED° NOT BEING AN AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE (No. 6), BOTTOMRY BOND (No. 14), MORTGAGE OF A CROP (No. 36), RESPONDENTIA BOND (No. 47) OR SECURITY BOND (No. 48)—	
(a) when possession† of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 20) for a ‡[consideration or market value] equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bottomry Bond (No. 14) or the amount secured by such deed.
Explanation.—A mortgagor who gives or has given to the mortgagee a power of attorney to collect rents, or gives or has given to the mortgagee a lease of the property mortgaged or part thereof, is deemed to give possession thereof within the meaning of this article;	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	One rupee fifty naye paise.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	One rupee fifty naye paise.
Exemptions	
Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883 or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
§[° *]	

[*] In its application to Telangana area of the State of Andhra Pradesh, for levy of transfer tax in the form a surcharge on the stamp duty imposed on an instrument of mortgage of immovable property, see the Hyderabad Municipal Corporations Act, 1955 (Hyd. II of 1956), Section 261; and the Andhra Pradesh (Telangana Area) District Municipalities Act, 1956 (XVIII of 1956), Section 106.

[†] In its application to Andhra area of the State of Andhra Pradesh, for levy in the form of a surcharge on the stamp duty imposed on an instrument of mortgage with

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Schedule 1A — Article 33 Note 1

(1) Principles to be observed in charging instrument with proper stamp duty stated — **Held**, instrument was chargeable under Schedule 1-A, Article 6 and not under Article 33. **AIR 1964 Andh Pra 43 (45) (SB).**

Description of Instrument (1)	Proper Stamp-duty 2
possession of immovable property, see the Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 (V of 1920), Section 116-A; and the Andhra Pradesh (Andhra Area) District Boards Act, 1920 (XIV of 1920), Section 110-A.	
[‡] Substituted for "consideration" by Andh. Pra. Act 22 of 1971, Section 6 (vii).	
[§] Exemption 2 omitted by Act 26 of 1965, Section 2 (x) (3-12-1965).	
36. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Twenty-five naye paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Twenty-five naye paise.
(b) when the loan is repayable more than three months but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Forty naye paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Forty naye paise.
37. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a protest (No. 43) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	Two rupees twenty-five naye paise.
38. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Forty naye paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of thirty rupees twenty-five naye paise for every Rs. 10,000 or part thereof of the value of the stock or security.
39. NOTE OF PROTEST BY THE MASTER OF A SHIP.	One rupee.
40. PARTITION — Instrument of [as defined by section 2 (15)]—	The same duty as a Bottomry Bond (No. 14) for the amount of the *[market value] of the separated share or shares of the property.
	N. B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal *[market value] and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:
	Provided always that—
	(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty

Description of Instrument (1)	Proper Stamp-duty (2)
	paid in respect of the first instrument, but shall not be less than one rupee fifty naye paise; (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the *[market value] for the purpose of duty shall be calculated at twenty-five times the annual revenue; (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an Arbitrator directing a partition is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee fifty naye paise.
[*] Substituted for "value" by Andh. Pra. Act 22 of 1971, Section 6 (viii).	
41. PARTNERSHIP— A.—Instrument of— (a) where the capital of the partnership does not exceed Rs. 500; (b) in any other case ..	Ten rupees. Forty rupees.
B.—Dissolution of—	Twenty rupees.
42. POWER OF ATTORNEY as defined by section 2 (21) not being a proxy— (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	Seventy-five naye paise.
(b) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	One rupee fifty naye paise.
(c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Eleven rupees twenty-five naye paise.
(d) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Twenty-two rupees fifty naye paise.
(e) when given for consideration and authorising the attorney to sell any immovable property;	*[The same duty as a Conveyance (No. 20) for a consideration or market value, equal to the amount of consideration.]
(f) in any other case.	Two rupees twenty-five naye paise for each person authorised.
Explanation.—For the purposes of this article, more persons than one when belonging to the same firm shall be deemed to be one person.	**N. B.**—The term 'Registration' includes every operation incidental to registration under the Indian Registration Act, 1908 (Central Act XVI of 1908).
[*] Substituted for former entry by Andh. Pra. Act 22 of 1971, Section 6 (ix).	
43. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Two rupees.

Description of Instrument (1)	Proper Stamp-duty (2)
44. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	Two rupees.
45. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	*[The same duty as a Conveyance (No. 20) for a consideration or market value, equal to the amount of such consideration as set forth in the reconveyance.]
(b) in any other case ..	Thirty rupees.
[*] Substituted by Andh. Pra. Act 22 of 1971, Section 6 (x).	
46. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for such amount of value as set forth in the release.
(b) in any other case ..	Fifteen rupees.
47. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bottomry Bond (No. 14) for the amount of the loan secured.
48. SECURITY BOND OR MORTGAGE DEED, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for the amount secured.
(b) in any other case ..	Fifteen rupees.
Exemptions	
Bond or other instrument, when executed— (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per mensem; (b) executed by person taking advances under the Land Improvement Loans Act, 1883 or the Agriculturists' Loans Act, 1884 or by their sure-	

Schedule 1A Article 46 — Note 1

(1) A release deed can only feed title but cannot transfer title and the renouncement must be in favour of a person who already has title to an estate. A release deed is valid even if it recites some benefit to the executant simultaneously with the act of release. **(1973) 1 Andh WR 184 (FB).** (Relinquishment by co-owner of his right in property in favour of other co-owner (on receiving amount contributed by him in purchasing joint property) is a release and not conveyance.)

Description of Instrument (1)	Proper Stamp-duty (2)
ties, as security for the repayment of such advances;	
(c) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
49. SETTLEMENT—	
A. Instrument of (including a deed of dower).	*[The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount as set forth in such settlement or market value of the property concerned.]
	Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee fifty naye paise.
Exemption	
Deed of dower executed on the occasion of a marriage between Muslims.	
B. Revocation of	The same duty as a Bottomry Bond (No. 14) for a sum equal to the *[amount as set forth in such instrument or market value of the property concerned,] as set forth in the instrument of revocation, but not exceeding thirty rupees.
50. SHARE WARRANTS to bearer issued under the Companies Act, 1956 (Central Act I of 1956).	One and a half times the duty payable on a Conveyance (No. 20) for a *[consideration or market value] equal to the nominal amount of the shares specified in the warrant.
Exemptions—†Omitted.	
[*] Substituted by Andh. Pra. Act 22 of 1971, Section 6 (xii).	
[†] Omitted by Andh. Pra. Act 26 of 1965, Section 2 (xi) (3-12-1965).	
51. SHIPPING.—Order for or relating to the conveyance of goods on board of any vessel.	Ten naye paise.
52. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed *[twenty-two rupees fifty paise];	The duty with which such lease is chargeable.
(b) in any other case	*[twenty-two rupees fifty paise.]
†Exemption—[Omitted.]	
[°] Substituted for 'fifteen rupees' by Andh. Pra. Act 10 of 1967, Section 3 (4) (iii) (20-10-1967).	
[†] Omitted by Andh. Pra. Act 26 of 1965, Section 2 (xii) (3-12-1965).	
53. TRANSFER (whether with or without consideration)—	
(a) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a Conveyance (No. 20) for a *[consideration or market value] equal to the face amount of the debenture.

Schedule 1A Article 53 — Note 1

(1) Sale deed embodying the sale of a cinema house together with the machinery thereof but not including any interest in the site does not come within any of the categories mentioned in Article 53 of Sch. 1-A. **AIR 1973 Andh Pra 48 (50) = (1972) 2 Andh LT 318 (FB).**

Description of Instrument (1)	Proper Stamp-duty (2)
(b) of any interest secured by a bond, mortgage deed or policy of insurance—	
(i) if the duty on such bond, mortgage deed or policy does not exceed †[twenty-two rupees fifty paise;]	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case ..	†[Twenty-two rupees fifty paise.]
(c) of any property under the Administrator-General's Act, 1913 (Central Act III of 1913), section 25;	Twenty-two rupees fifty naye paise.
(d) of any trust property from one trustee to another trustee or from a trustee to a beneficiary.	Eleven rupees twenty-five paise or such smaller amount as may be chargeable under clauses (a) and (b) of this article.
Exemptions	
Transfers by endorsement—	
(a) of a bill of exchange, cheque or promissory note;	
(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;	
(c) of a policy of insurance;	
(d) of securities of the Central Government.	
54. TRANSFER OF LEASE by way of assignment, and not by way of under-lease.	The same duty as a Conveyance (No. 20) for a *[consideration or market value] equal to the amount of the consideration for the transfer.
†Exemption—[Omitted.]	
55. TRUST—	
A. Declaration of—of, or, concerning any property when made by any writing not being a Will;	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding forty-five rupees.
B. Revocation of — of, or, concerning any property — when made by any instrument other than a Will.	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument, but not exceeding thirty rupees.
56. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns; or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Seventy-five naye paise.

[*] Substituted for 'consideration' by A. P. Act 22 of 1971, S. 6 (xiii).

[†] Substituted for 'fifteen rupees' by A. P. Act 10 of 1967, S. 3 (4) (iv) (20-10-1967).

[*] Substituted for 'consideration' by A. P. Act 22 of 1971, S. 6 (xiv).

[†] Omitted by A. P. Act 26 of 1965, S. 2 (xiii) (3-12-1965).

BIHAR

Note.—In its application to the State of Bihar, Schedule I-A is inserted by the Bihar Stamp (Amendment) Act, 1937 (Bih. VI of 1937), S. 13 (with effect from 1-1-1938) after Schedule I of the principal Act, that is, the Indian Stamp Act, 1899 (II of 1899). This schedule is amended, from time to time, by Bihar Acts IV of 1938, II of 1938 (by which specified items under Exemptions to certain articles are omitted) and III of 1958 (by which, from 1-4-1958,

new coins expressed in naye paise are substituted for old coins expressed in annas). Schedule I-A given below is so amended.

Increase in stamp-duty.— The stamp duty has been increased by way of a surcharge by the Bihar Entertainments Duty, Court-fees and Stamp (Surcharge Amendment) Act, 1948 (Bih. Act XXV of 1948). This Bihar Surcharge Amendment Act, 1948 is itself amended by another Bihar Act, namely, Bihar Act XIV of 1958. The following relevant provisions of the said Bihar Act of 1948, as so amended, are reproduced for the facility of ready reference:

"**1.** (1) This Act may be called the Bihar Entertainments Duty, Court-fees and Stamp (Surcharge Amendment) Act, 1948.

(2) It shall come into force on the first day of April, 1948.

PART II

5. Enhancement of stamp-duty.— Notwithstanding anything contained in the Indian Stamp Act, 1899, as amended from time to time in its application to the State of Bihar, the amount of stamp duties chargeable under the said Act on all instruments except Bill of Exchange, Cheques, Promissory notes, Bills of Lading, Letters of Credit, Policies of Insurance, Proxies and Receipts, shall be increased in each case by a surcharge at the rates specified in the Second Schedule annexed hereto.

6. Application of the Indian Stamp Act, 1899.— The provisions of the Indian Stamp Act, 1899, as amended aforesaid, save in so far as they are inconsistent with anything contained in this Part, shall apply to this Act.

7. Repeal.— The....Bihar Stamp (War Surcharge Amendment) Act, 1943 are hereby repealed.

SECOND SCHEDULE

Rates of surcharge on stamp duties chargeable under the Indian Stamp Act, 1899, as amended from time to time in its application to the State of Bihar.

	Rates of Surcharge.
1. On every whole rupee	40 Naye Paise
2. (a) On a fraction of a rupee up to and including 25 Naye Paise. ..	15 Naye Paise
(b) On a fraction of a rupee exceeding 25 Naye Paise but not exceeding 50 Naye Paise. ..	20 Naye Paise
(c) On a fraction of a rupee exceeding 50 Naye Paise but not exceeding 75 Naye Paise. ..	35 Naye Paise
(d) On a fraction of a rupee exceeding 75 Naye Paise but less than 100 Naye Paise. ..	40 Naye Paise

Explanation.— On a stamp-duty of Rs. 12/50 Naye Paise, the surcharge will be (12×40 Naye Paise) plus 20 Naye Paise, namely, Rs. 5 and the total stamp-duty chargeable will be Rs. 17/50 Naye Paise."

Exemption from stamp-duty.— Section 20 of the Bihar Bhoodan Yagna Act, 1954 (Bih. XXII of 1954), which came into force on 21st July, 1954, is as follows:

"**20. Exemption from stamp-duty and registration.—** Notwithstanding anything to the contrary contained in any other law for the time being in force, the Bhoodan Yagna Danpatra or grant of land made or deemed to have been made under any provision of this Act shall be exempted from payment of stamp-duty and from registration or attestation fee and shall be deemed always to have been so exempt."

SCHEDULE IA

STAMP-DUTY ON CERTAIN INSTRUMENTS UNDER THE BIHAR STAMP (AMENDMENT) ACT, 1937 (BIHAR ACT VI OF 1937).

(See section 3, first proviso inserted by Bihar Act VI of 1937).

[NOTE.—The articles in Schedule IA are numbered so as to correspond with similar articles in Schedule I.]

1. Acknowledgment of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt

in any book (other than a banker's pass-book), or on a separate piece of paper when such book or paper is left in the creditor's possession:—Fifteen naye Paise. Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest, or to deliver any goods or other property.

2. **Administration-bond,** including a bond given under Sections 291, 375 and 376 of the Indian Succession Act, 1925, or section 6 of the Government Savings Banks Act, 1873:—

(a) where the amount does not exceed Rs. 1,000, for every Rs. 100 or part thereof;—One rupee.

(b) in any other case—The duty payable under clause (a) for the first Rs. 1,000, and in addition, the same duty as on a Bond (No. 15) for the portion in excess of Rs. 1,000.

3. **Adoption-deed,** that is to say, any instrument (other than a will), recording an adoption, or conferring or purporting to confer an authority to adopt.—

Twenty rupees.

Advocate. See Entry as an Advocate (No. 30).

4. **Affidavit,** including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.—Two rupees.

Exemptions

Affidavit or declaration in writing when made—

(a) as a condition of enrolment under the Indian Army Act, 1911, or the Indian Air Force Act, 1932;

(b) [Omitted by Bih. Act II of 1958, S. 2 (31-3-1958).] or

(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.

5. **Agreement or Memorandum of an agreement—**

(a) if relating to the sale of a bill of exchange;—Twenty naye paise;

(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;—Subject to a maximum of fifteen rupees, *[one and a half annas] for every Rs. 10,000 or part thereof, of the value of the security or share.

(c) if not otherwise provided for—Seventy-five naye paise.

Exemptions

Agreement or memorandum of agreement

(a) [Omitted by Bih. Act II of 1958, S. 2 (31-3-1958).]

(b) made in the form of tenders to the Central Government for, or relating to any loan;

(c) made under the European Vagrancy Act, 1874, section 17.

[*] Note—There is no specific direction to convert this into new coins.

Agreement to lease—See Lease (No. 35).

6. **Agreement relating to deposit of title-deeds, pawn or pledge,** that is to say, any instrument evidencing an agreement relating to—

(1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or

(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—

	If drawn singly.		If drawn in set of two for each part of the set.		If drawn in set of three for each part of the set.	
	Rs.	nP.	Rs.	nP.	Rs.	nP.
(i) when the amount of the loan or debt does not exceed Rs. 100.	0	20	0	15	0	10
(ii) when the amount of the loan or debt exeeeds Rs. 100 but does not exceed Rs. 200.	0	30	0	20	0	10
(iii) when it exceeds Rs 200 but does not exceed Rs. 400;	0	60	0	20	0	20
when it exceeds Rs. 400 but does not exceed Rs. 600;	0	90	0	50	0	30
when it exceeds Rs. 600 but does not exceed Rs. 800;	1	15	0	60	0	40
when it exceeds Rs. 800 but does not exceed Rs. 1,000;	1	45	0	75	0	50
when it exceeds Rs. 1,000 but does not exceed Rs. 1,200;	1	70	0	90	0	60
when it exceeds Rs. 1,200 but does not exceed Rs. 1,600;	2	25	1	15	0	75
when it exceeds Rs. 1,600 but does not exceed Rs, 2,500;	3	40	1	70	1	15
when it exceeds Rs. 2,500 but does not exceed Rs. 5,000;	6	75	3	40	2	25
when it exceeds Rs. 5,000 but does not exceed Rs. 7,500;	10	00	5	10	3	40
when it exceeds Rs. 7,500 but does not exceed Rs. 10,000;	13	50	6	75	4	50
when it exceeds Rs. 10,000 but does not exceed Rs. 15,000;	20	25	10	15	6	75
when it exceeds Rs. 15,000 but does not exceed Rs. 20,000;	27	00	13	50	9	00
when it exceeds Rs. 20,000 but does not exceed Rs. 25,000;	33	75	16	90	11	25
when it exceeds Rs. 25,000 but does not exceed Rs. 30,000;	40	50	20	25	13	50
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	13	50	6	75	4	50

(b) if such loan or debt is repayable not more than three months from the date of such instrument—Half the duty payable on a loan or debt under clause (a) (i), clause (a) (ii) or clause (a) (iii) for the amount secured.

7. Appointment in execution of a power, whether of trustees or of property, movable or immovable where made by any writing not being a Will.—Twenty-five rupees.

8. Appraisement or valuation made otherwise than under an order of the Court in the course of a suit—

(a) where the amount does not exceed Rs. 1,000—The same duty as a Bond (No. 15) for such amount.

(b) in any other case—Seven rupees fifty naye paise.

Exemptions

(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

9. Apprenticeship-deed, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11).—Seven rupees fifty naye paise.

Exemptions

Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by, or at the charge of any public charity.

10. Articles of association of a company.—Fifty rupees.

Exemption

Articles of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1913.

See also Memorandum of Association of a Company (No. 39).

11. Articles of clerkship or contract, whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.—Two hundred and fifty rupees.

Assignment, See Conveyance (No. 23), Transfer (No. 62), and Transfer of lease (No. 63) as the case may be.

Attorney, See Entry as an Attorney (No. 30), and Power-of-attorney (No. 48).

Authority to adopt, See Adoption-deed (No. 3).

12. Award, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—

(a) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000;—The same duty as a Bond (No. 15) for such amount.

(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;—Seven rupees fifty naye paise, and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.—Fifty naye paise subject to a maximum of fifty rupees.

13. * * * * * * *

14. * * * * * * *

15. Bond [as defined by section 2 (5)], not being a Debenture (No. 27), and not being otherwise provided for by this Act, or by the Court-fees Act, 1870—
where the amount or value secured does not exceed Rs. 10;—Fifteen naye paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;—Twenty-five naye paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;—Sixty-five naye paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;—One rupee twenty-five naye paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;—Two rupees twenty-five naye paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;—Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;—Three rupees seventy-five naye paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;—Four rupees fifty naye paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;—Five rupees twenty-five naye paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;—Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;—Six rupees seventy-five naye paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;—Seven rupees fifty naye paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.—Three rupees seventy-five naye paise.

See Administration-Bond (No. 2), Bond (No. 15), Customs Bond (No. 26), Indemnity-bond (No. 34), Respondentia Bond (No. 56), Security-bond (No. 57).

Exemptions

Bond, when executed by—

(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;

(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

16. * * * * * * *

17. Cancellation — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.—Ten rupees.

See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).

18. Certificate of sale (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue officer—

(a) where the purchase-money does not exceed Rs. 10;—Twenty naye paise.

(b) where the purchase-money exceeds Rs. 10, but does not exceed Rs. 25;—Forty naye paise.

(c) in any other case.—The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.

19. * * * * * * *

20. Charter party, that is to say, any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.—Two rupees.

21. * * * * * * *

22. Composition-deed, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors.—Fifteen rupees.

23. Conveyance not being a Transfer charged or exempted under No. 62—

where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;—Seventy-five naye paise.

where it exceeds Rs. 50 but does not exceed Rs. 100;—One rupee fifty naye paise.
where it exceeds Rs. 100 but does not exceed Rs. 200;—Three rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;—Four rupees fifty naye paise.
where it exceeds Rs. 300 but does not exceed Rs. 400;—Six rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;—Seven rupees fifty naye paise.
where it exceeds Rs. 500 but does not exceed Rs. 600;—Nine rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;—Ten rupees fifty naye paise.
where it exceeds Rs. 700 but does not exceed Rs. 800;—Twelve rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;—Thirteen rupees fifty naye paise.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;—Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.—Seven rupees fifty naye paise.

Exemption

[Omitted by Bih. Act II of 1958, S. 2 (31-3-1958).]

Co-partnership deed. See Partnership (No. 46).

24. Copy or extract, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—

(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee;—Seventy-five naye paise.

(ii) in any other case—One rupee fifty naye paise.

Exemptions

(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

(b) [Omitted by Bih. Act II of 1958, S. 2 (31-3-1958).]

25. Counterpart or duplicate of any instrument, chargeable with duty and in respect of which the proper duty has been paid—

(a) if the duty with which the original instrument is chargeable does not exceed one rupee fifty naye paise.—The same duty as is payable on the original.

(b) in any other case—One rupee fifty naye paise.

Exemption

Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.

26. Customs-bond—

(a) where the amount does not exceed Rs. 1,000—The same duty as a Bond (No. 15) for such amount.

(b) in any other case—Ten rupees.

27. Debenture. [Entry inserted by Bih. Act VI of 1937 is repealed by Central Act XLIII of 1955, S. 8 (1-4-1956).]
See also Bond (No. 15) and sections 8 and 55.

Declaration of any trust. See Trust (No. 64).

28. * * * * * * *

Deposit of Title-deeds—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6).

Dissolution of partnership.—See Partnership (No. 46).

29. Divorce.—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage—Twenty rupees.

Exemption

[Omitted by Bih. Act II of 1958, S. 2 (31-3-1958).]

Dower.—Instrument of. See Settlement (No. 58).

Duplicate.—See Counterpart (No. 25).

30. Entry as an Advocate, or Attorney on the roll of any High Court, under the Indian Bar Councils Act, 1926, or in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners' Act, 1884—

(a) in the case of an Advocate—Seven hundred and fifty rupees.

(b) in the case of an Attorney—Five hundred rupees.

31. Exchange of property.—Instrument of.—The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.

Extract. See Copy (No. 24).

32. Further charge.— Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—

(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);—The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.

(b) when such mortgage is one of the descriptions referred to in clause (b) of Article No. 40 (that is, without possession)—

(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;—The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.

(ii) if possession is not so given—The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.

33. Gift.—Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62)—

(i) when the value of the gift does not exceed Rs. 1,000.—The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

(ii) when it exceeds Rs. 1,000 but does not exceed Rs. 10,000.—Rs. 15 for the first thousand rupees and Rs. 10 for every Rs. 500 or part thereof by which the value of the gift exceeds Rs. 1,000.

(iii) when it exceeds Rs. 10,000.—The fee under clause (ii) and, in addition Rs. 15 for every Rs. 500 or part thereof by which the value of the gift exceeds Rs. 10,000.

Hiring agreement or agreement for service. See Agreement (No. 5).

34. Indemnity-bond—The same duty as a Security Bond (No. 57) for the same amount.
Inspectorship-deed.—See Composition-deed (No. 22).

35. Lease, including an under-lease or sub-lease and any agreement to let or sub-let—

(a) where by such lease the rent is fixed and no premium is paid or delivered—

(i) where the lease purports to be for a term of not less than one year;—The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

(ii) where the lease purports to be for a term of not less than one year, but not more than five years;—The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved;

(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of one and a half times the average annual rent reserved.

(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years;—The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.

(v) where the lease purports to be for a term exceeding twenty years; but not exceeding thirty years;—The same duty as a Conveyance (No. 23) for a consideration equal to five times the amount or value of the average annual rent reserved.

(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;—The same duty as a Conveyance (No. 23) for a consideration equal to eight times the amount or value of the average annual rent reserved.

(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity;—The same duty as a Conveyance (No. 23) for a consideration equal to one-fourth of the whole amount of rent which would be paid or delivered in respect of the first fifty years of the lease.

(viii) where the lease does not purport to be for any definite term;—The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.

(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved;—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease.

(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved;—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee.

Exemption

Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

Explanation.—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.

36. * * * * * * *

37. * * * * * * *

Letter of guarantee. See Agreement (No. 5).

38. Letter of license, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.—Fifteen rupees.

39. Memorandum of Association of a Company—

(a) if accompanied by articles of association under section 17 of the Indian Companies Act, 1913—Thirty rupees.

(b) if not so accompanied—Eighty rupees.

Exemption

Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1913.*

[*] Now see Ss. 26, 27 of Companies Act, 1956.

40. Mortgage-deed, not being an agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6), Bond (No. 15), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56). or Security Bond (No. 57)—

(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;—The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.

(b) when possession is not given or agreed to be given as aforesaid;—The same duty as a Bond (No. 15) for the amount secured by such deed.

Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article:

(c) When a collateral or auxiliary or additional or substituted security, or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—

for every sum secured not exceeding Rs. 1,000;—Seventy-five naye Paise.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.—Ditto.

Exemption

(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884 or by their sureties as security for the repayment of such advances.

(2) [Omitted by Bih. Act II of 1958, S. 2 (31-3-1958).]

41. Mortgage of a crop, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—

(a) when the loan is repayable not more than three months from the date of the instrument—

for every sum secured not exceeding Rs. 200;—Fifteen naye Paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;—Fifteen naye Paise.

(b) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—

for every sum secured not exceeding Rs. 100;—Twenty naye Paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.—Ditto.

42. Notarial Act, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a Protest (No. 50) made or signed by a Notary Public

in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.—One rupee fifty naye Paise.
See also Protest of Bill or Note (No. 50).

43. **Note or Memorandum,** sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—

(a) of any goods exceeding in value twenty rupees;—Twenty naye Paise.

(b) of any stock or marketable security exceeding in value twenty rupees—Subject to a maximum of fifteen rupees, *[twenty naye Paise] for every Rs. 10,000 or part thereof of the value of the stock or security.

[*] Note—The direction to substitute "twenty naye paise" for "three annas" seems to be a discrepancy in Bih. Act III of 1958. Formerly it was only "two annas" and not "three annas" in cl. (b).

44. **Note of protest by the master of a ship.—One rupee.**
See also Protest by the Master of a Ship (No. 51).

45. **Partition.**—Instrument of [as defined by section 2 (15)].—The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.

N. B.—The largest shares remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—(a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement the duty chargeable upon the instrument effecting such a partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee; (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment the value for the purpose of duty shall be calculated at not more than five times the annual revenue; (c) where final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee.

46. **Partnership—**

A.—Instrument of—

(a) where the capital of the partnership does not exceed Rs. 500;—Five rupees.

(b) in any other case—Twenty rupees.

B.—Dissolution of—Ten rupees.

Pawn or pledge—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6.)

47. * * * * * * *

48. **Power-of-attorney** [as defined by section 2 (21)], not being a Proxy—

(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;—Seventy-five naye Paise.

(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;—Ditto.

(c) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (a);—One rupee fifty naye paise.

(d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;—Seven rupees fifty naye paise.

(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;—Fifteen rupees.

(f) when given for consideration and authorizing the attorney to sell any immovable property;—The same duty as a Conveyance (No. 23) for the amount of the consideration.

(g) in any other case—One rupee fifty naye paise for each person authorized.

N. B.—The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908.

Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.

49 * * * * * * *

50. Protest of bill or note, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such attesting the dishonour of a bill of exchange or promissory note—Two rupees.

51. Protest by the master of a ship, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such—Two rupees.

See also Note of Protest by the Master of a Ship (No. 44).

52 * * * * * * *

53 * * * * * * *

54. Reconveyance of mortgaged property—

(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;—The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.

(b) in any other case—Fifteen rupees.

55. Release, that is to say, any instrument (not being such a release as is provided for by section 23-A), whereby a person renounces a claim upon another person or against any specified property—

(a) if the amount or value of the claim does not exceed Rs. 1,000;—The same duty as Bond (No. 15) for such amount or value as set forth in the release.

(b) in any other case—Seven rupees fifty naye paise.

56. Respondentia bond, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.—The same duty as a Bond (No. 15) for the amount of the loan secured.

Revocation of any trust or settlement. See Settlement (No. 58), Trust (No. 64).

57. Security-bond or mortgage-deed, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—

(a) when the amount secured does not exceed Rs. 1,000;—The same duty as a Bond (No. 15) for the amount secured.

(b) in any other case—Seven rupees fifty naye paise.

Exemptions

Bond or other instrument, when executed—

(a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;

(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility shall not be less than a specified sum per mensem;

(c) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances;

(d) executed by officers of the Crown or their sureties to secure the due execution of an office or due accounting for money or other property received by virtue thereof.

58. SETTLEMENT—

A.—Instrument of (including a deed of dower)—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed twelve annas.

Exemption

Deed of dower executed on the occasion of a marriage between Muhammadans.

B.—Revocation of—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding fifteen rupees.

See also Trust (No. 64).

59. Share warrants to bearer issued under the Indian Companies Act, 1913 (VII of 1913).—One and a half times the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.

Exemptions

Share warrant, when issued by a company in pursuance of the Indian Companies Act, 1913, section 43, to have effect only upon payment, as composition for that duty, to the Collector of Stamp Revenue of—

(a) one and a half per centum of the whole subscribed capital of the company; or

(b) if any company which has paid the said duty or composition in full subsequently issues an addition to its subscribed capital—One and a half per centum of the additional capital so issued.

60. * * * * * * *

61. Surrender of lease—

(a) when the duty with which the lease is chargeable, does not exceed seven rupees fifty naye paise;—The duty with which such lease is chargeable.

(b) in any other case—Seven rupees fifty naye paise.

Exemption

Surrender of lease, when such lease is exempted from duty.

62. Transfer (whether with or without consideration)—

(a) [Entry inserted by Bih. Act VI of 1937 is repealed by Central Act, XLIII of 1955, Section 8 (1-4-1956).]

(b) of debentures, being marketable securities whether the debenture is liable to duty or not, except debentures provided for by section 8;—One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.

(c) of any interest secured by a bond, mortgage deed or policy of insurance—

(i) if the duty on such bond, mortgage deed or policy does not exceed five rupees;—The duty with which such bond, mortgage deed or policy of insurance is chargeable.

(ii) in any other case—Seven rupees fifty naye paise.

(d) of any property under the Administrator-General's Act, 1913,* section 25,—Twenty rupees.

(e) of any trust property, without consideration from one trustee to another trustee or from a trustee to a beneficiary.—Seven rupees fifty naye paise or such smaller amount as may be chargeable under clauses (a) to (c) of this article.

[*] Now see S. 22 of the Administrators-General Act, 1963.

Exemptions

Transfer by endorsement—

(a) of a bill of exchange, cheque or promissory note;

(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;

(c) of a policy of insurance;

(d) of securities of the Central Government.

See also section 8.

63. Transfer of lease by way of assignment, and not by way of under-lease.—The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.

Exemption

Transfer of any lease exempt from duty.

64. Trust—

A.—Declaration of — of, or concerning, any property when made by any instrument not being a Will.—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding twenty-two rupees fifty naye paise.

B.—Revocation of — of, or concerning any property when made by any instrument other than a Will.—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding fifteen rupees.

See also Settlement (No. 58).

Exemption

Charitable and Religious trusts including waqf alalaulad.

Valuation. See Appraisement (No. 8).

65. Warrant for goods, that is to say, instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.—Forty naye paise.

GOA, DAMAN AND DIU

The Indian Stamp Act was extended to the Union territory of Goa, Daman and Diu by the Goa, Daman and Diu (Laws) No. 2 Regulation, 1963 (XI of 1963) with effect from 1-9-1964.

The following Table was inserted by the Indian Stamp (Goa, Daman and Diu Amendment) Act, 1969 (8 of 1969), Section 14 (1-7-1969).

"SCHEDULE I-A

Description of Instrument (1)	Proper Stamp Duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Ten paise.
2. ADMINISTRATION BOND, including a bond given under the Indian Succession Act, 1925, or section 6 of the Government Savings Banks Act, 1873—	
(a) where the amount does not exceed Rs. 2,000 ..	The same duty as a Bond (No. 15) for such amount.
(b) in any other case ..	Twenty rupees.
3. ADOPTION DEED, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt ..	Twenty-five rupees.

Description of Instrument (1)	Proper Stamp-duty (2)
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing ..	Two rupees.
Exemptions	
Affidavit or declaration in writing when made— (a) as a condition of enrolment in the Armed Forces of the Union; (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Twenty-five paise.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of fifteen rupees fifteen paise, for every Rs. 10,000 or part thereof of the value of the security or share.
(c) if not otherwise provided for ..	One rupee and fifty paise.
Exemptions	
Agreement or Memorandum of Agreement— (a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43; (b) made in the form of tenders to the Central Government for or relating to any loan.	
AGREEMENT TO LEASE. See LEASE (No. 35).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge or movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of a loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange (No. 13 (b)) for the amount secured.
(b) if such loan or debt is repayable not more than three months from the date of such instrument ..	Half the duty payable on a Bill of Exchange (No. 13 (b)) for the amount secured.
Exemptions	
Instrument of pawn or pledge of goods if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of pro-	Twenty-five rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
perty, movable or immovable, where made by any writing not being a Will.	
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount or value secured does not exceed Rs. 10.	Twenty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Forty paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	Seventy-five paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	One rupee and fifty paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Two rupees and twenty-five paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Three rupees and seventy-five paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Four rupees and fifty paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Five rupees and twenty-five paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Six rupees and seventy-five paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Seven rupees and fifty paise.
(b) in any other case ..	Ten rupees.
Exemption	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP DEED including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).	Five rupees.
Exemption	
Instrument of apprenticeship executed by a Magistrate under the Apprentices Act, 1961 or, by which a person is apprenticed by, or at the charge of, any public charity.	
10. ARTICLES OF ASSOCIATION OF A COMPANY—	
(a) where company has no share capital or the nominal share capital does not exceed Rs. 1,00,000.	Fifty rupees.
(b) where the nominal share capital exceeds Rs. 1,00,000 but does not exceed Rs. 5,00,000;	Two hundred and fifty rupees.
(c) where the nominal share capital exceeds Rs. 5,00,000 but does not exceed Rs. 1,00,00,000—	
(i) on the first Rs. 5,00,000;	Two hundred and fifty rupees.
(ii) on the next Rs. 5,00,000 or part thereof;	Five hundred rupees.
(iii) on the next Rs. 15,00,000 or part thereof;	Seven hundred and fifty rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
(iv) on the next Rs. 25,00,000 or part thereof;	One thousand rupees.
(v) on the next Rs. 50,00,000 of part thereof;	One thousand two hundred and fifty rupees.
(d) where the nominal share capital exceeds Rs. 1,00,00,000.	Five thousand rupees.
Exemption Articles of any Association not formed for profit and registered under section 25 of the Companies Act, 1956. See also Memorandum of Association of a Company (No. 39).	
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Two hundred and fifty rupees.
ASSIGNMENT—See Conveyance (No. 23), Transfer (No. 62) and Transfer of Lease (No. 63), as the case may be.	
ATTORNEY — See Power of Attorney (No. 48)	
AUTHORITY TO ADOPT—See ADOPTION DEED (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit.	The same duty as a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to a maximum of thirty rupees.
13. BILLS OF EXCHANGE as defined by section 2 (2), not being a Bond, bank note or currency-note.	See Schedule I.
14. BILL OF LADING (including a through Bill of Lading).	See Schedule I.
15. BOND as defined by section 2 (5), not being a debenture (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870 (7 of 1870)—	
where the amount or value secured does not exceed Rs. 10;	Twenty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Forty paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	Seventy-five paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	One rupee and fifty paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Two rupees and twenty-five paise.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Three rupees and seventy-five paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Six rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Seven rupees.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Eight rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Nine rupees.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
See Administration Bond (No. 2), Bottomry Bond (No. 16), Customs Bond or Excise Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).	

Description of Instrument (1)	Proper Stamp Duty (2)
Exemption Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or to any other object of public utility shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for. See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	Ten rupees.
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer or by an Officer of Customs—	
(a) where the purchase money does not exceed Rs. 10;	Forty paise.
(b) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25;	Seventy-five paise.
(c) in any other case ..	The same duty as is leviable under clause (a) or (b), as the case may be, of Article 23 for a consideration equal to the amount of the purchase money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	Twenty-five paise.
20. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of charterer, whether it includes a penalty clause or not.	Three rupees.
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Twenty rupees.
23. (a) **CONVEYANCE** other than a conveyance specified in clause (b), not being a Transfer charged or exempted under Article No. 62—	
when the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	One rupee and fifty paise.

Description of Instrument (1)	Proper Stamp Duty (2)
where it exceeds Rs. 50 but does not exceed Rs. 100;	Three rupees.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Six rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Nine rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Twelve rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Fifteen rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Eighteen rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Twenty-one rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Twenty-four rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Twenty-seven rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Thirty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Fifteen rupees.
Exemption	
Assignment of copyright by entry made under the Copyright Act, 1957.	
(b) **CONVEYANCE** (not being a transfer charged or exempted under Article 62) so far it relates to immovable property—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 200;	Twelve rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Eighteen rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Twenty-four rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Thirty rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Thirty-six rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Forty-two rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Forty-eight rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Fifty-four rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Sixty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Thirty rupees.
CO-PARTNERSHIP DEED. See Partnership (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract, by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee and fifty paise;	One rupee and fifty paise.
(ii) in any other case . .	Three rupees.
Exemptions	
(a) Copy of any paper which a public Officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedi-	

Description of Instrument (1)	Proper Stamp Duty (2)
cations, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed three rupees;	The same duty as is payable on the original.
(b) in any other case ..	Three rupees.
Exemption	
Counterpart of any lease granted to cultivator, when such lease is exempted from duty.	
26. CUSTOMS-BOND OR EXCISE-BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case ..	Ten rupees.
27. DEBENTURE.	See Schedule I.
DECLARATION OF ANY TRUST. See Trust (No. 64).	
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale on transfer of the property therein, when such goods exceed in value twenty rupees.	Fifteen paise.
DEPOSIT OF TITLE DEED. See Agreement relating to deposit of Title Deeds, Pawn or Pledge (No. 6).	
DISSOLUTION OF PARTNERSHIP. See Partnership (No. 46).	
29. DIVORCE — Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Ten rupees.
DOWER — Instrument of — See Settlement (No. 58).	
DUPLICATE—See Counterpart (No. 25).	
31. EXCHANGE OF PROPERTY — Instrument of—.	The same duty as is leviable on a conveyance under clause (a) or (b), as the case may be, of Article No. 23 for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. See Copy (No. 24).	
EXCISE BOND. See Customs Bond or Excise Bond (No. 26).	
32. FURTHER CHARGE, Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40, that is, with possession;	The same duty as a mortgage deed with possession (No. 40 (a)) for the amount equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge, possession of the	The same duty as a mortgage deed with possession (No. 40 (a)) for the amount equal to the total of the charge (including the

Description of Instrument (1)	Proper Stamp Duty (2)
property is given or agreed to be given under such instrument;	original mortgage demand any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT — Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62).	The same duty as is leviable on a conveyance under clause (a) or (b), as the case may be, of Article 23 for a consideration equal to the value of the property which is the subject-matter of the gift.
HIRING AGREEMENT or agreement for service. See Agreement (No. 5).	
34. INDEMNITY BOND.	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP DEED—See Composition Deed (No. 22).	
INSURANCE—See Policy of Insurance (No. 47).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let.	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	Half of the duty payable on a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year, but not more than five years;	Half of the duty payable on a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;	One-third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding 10 years but not exceeding 20 years;	One-third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding 20 years, but not exceeding 30 years;	One-third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding 30 years, but not exceeding 100 years;	One-third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to to be for a term exceeding 100 years or in perpetuity;	One third of the duty payable on Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal in the case of a lease granted solely for agricultural purposes to 1/10th and in any other case to 1/6th of the whole amount of rents which would be paid or delivered in respect of the first fifty years of lease.
(viii) where the lease does not purport to be for any definite term.	One third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) Where lease is granted for a fine or premium or for money advanced and where no rent is reserved.	One third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal to the amount or

Description of Instrument (1)	Proper Stamp Duty (2)
(c) Where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved.	value of such fine or premium or advance as set forth in the lease. One third of the duty payable on a Conveyance (No. 23 (a)) as levied by this Act, for a consideration equal to the amount or value as such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered.
Exemptions Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank. **Explanation I.** Rent paid in advance shall be deemed to be premium or money advanced within the meaning of this article unless it is specifically provided in the lease that rent paid in advance will be set off towards the last instalment or instalments of rent . **Explanation II.** When a lessee undertakes to pay any recurring charge such as Government revenue, landlord's share of cesses, or the owner's share of municipal rates, which is by law recoverable from the lessor and also the cost to repairs and improvements paid by the lessee, the amount so agreed to be paid by the lessee, shall be deemed to be part of the rent.	
36. LETTER OF ALLOTMENT OF SHARES, in any company or proposed company, or in respect of any loan to be raised by any company or proposed company. See also certificate or other Document (No. 19).	**Twenty paise.**
37. LETTER OF CREDIT. LETTER OF GUARANTEE, See Agreement (No. 5).	**See Schedule I.**
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	**Fifteen rupees.**
39. MEMORANDUM OF ASSOCIATION OF A COMPANY— (a) if accompanied by articles of association under section 26 of the Companies Act, 1956; (b) if not so accompanied. **Exemption** Memorandum of any association not formed for profit and registered under section 25 of the Companies Act, 1956.	**One hundred rupees.** The same duty as is leviable on articles of association under Article 10 according to the share capital of the company.

Description of Instrument (1)	Proper Stamp Duty (2)
40. MORTGAGE-DEED, not being an agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty is leviable on a conveyance under clause (a) or (b), as the case may be, of article No. 23 for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid.	The same duty as Bond (No. 15) for the amount secured by such deed.
Explanation. A mortgagor, who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article:	
(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the above mentioned purposes where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Seventy-five paise.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Seventy-five paise.
Exemptions	
(1) Instruments, executed by persons taking advances under the Land Improvement Loans Act 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Ten paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Ten paise.
(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Twenty paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Twenty paise.
42. NOTARIAL ACT, that is to say, any instrument endorsement, note, attestation, certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public. See also Protest of Bill or Note (No. 50).	Three rupees.
43. NOTE OF MEMORANDUM, sent by a Broker or Agent to his Principal intimat-	

Description of Instrument (1)	Proper Stamp Duty (2)
ing the purchase or sale on account of such Principal—	
(a) of any goods, exceeding in value twenty rupees;	Twenty-five paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of twenty five rupees, twenty paise for every Rs. 10,000 or part thereof of the value of the stock or security.
44. NOTE OR PROTEST BY THE MASTER OF A SHIP.	One rupee and Fifty paise.
See also Protest by the Master of a Ship (No. 51).	
ORDER FOR THE PAYMENT OF MONEY	
See Bill of Exchange (No. 13).	
45. PARTITION Instrument of as defined by section 2 (15).	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. N. B.—The largest share remaining after property is partitioned or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than seventy five paise. (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than ten times the annual revenue. (c) where a final order for effecting partition passed by any Revenue Authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition, in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed seventy-five paise.
46. PARTNERSHIP —	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 1,000/-;	Two rupees and fifty paise.
where the capital of the partnership does not exceed Rs. 5000/-;	Ten rupees.
where the capital of the partnership does not exceed Rs. 10000/-;	Twenty rupees.
where the capital of the partnership does not exceed Rs. 15000/-;	Thirty rupees.
where the capital of the partnership does not exceed Rs. 20000/-;	Forty rupees.
where the capital of the partnership does not exceed Rs. 25000/-.	Fifty rupees.
(b) in any other case.	One hundred rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
B.—Dissolution of— PAWN OR PLEDGE, See Agreement relating to Deposit of Title Deeds Pawn or Pledge (No. 6).	Thirty rupees.
47. POLICY OF INSURANCE—	See Schedule-I.
48. POWER OF ATTORNEY, as defined in section 2 (21) not being a Proxy (No. 52)—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one (or?) more such documents;	One rupee.
(b) when required in suits or proceedings under Presidency Small Cause Courts Act, 1882;	One rupee.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in cl. (a);	Two rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Twenty rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as under clause (a) or (b), as the case may be, of article No. 23 for the amount of consideration.
(g) in any other case.	Two rupees for each person authorised.
Explanation.— For the purpose of this article more persons than one when belonging to the same firm shall be deemed to be one person.	N. B.—The term registration includes every operation incidental to registration under the Indian Registration Act, 1908.
49. PROMISSORY NOTE.	See Schedule I.
50 PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Two rupees.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consigners for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. See also Note of Protest by the Master of a Ship (No. 44).	Three rupees.
52. PROXY.	See Schedule I.
53. RECEIPTS.	See Schedule I.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000/-;	The same duty as is leviable on a conveyance under clause (a) of Article 23 for the amount of such consideration as set forth in the reconveyance.
(b) in other case.	Thirty rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000/-;	The same duty as a Bond (No. 15) for such amount or value as set forth in the release.
(b) in any other case.	Ten rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as Bottomry Bond (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT.	
See Settlement (No. 58): Trust (No. 64).	
57. SECURITY-BOND OR MORTGAGE-DEED, executed by way of security for the due execution of any office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000/-;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case.	Ten rupees.
Exemptions	
Bond or other instrument, when executed—	
(a) by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;	
(b) by person taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances;	
(c) by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT—	
A.—Instrument of (including a deed of dower)	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement.
	Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and as instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee.
Exemption	
Deed of dower executed on the occasion of a marriage between Muhammadans.	
B.—Revocation of—	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation, but not exceeding twenty rupees.
See also Trust (No. 64).	

Description of Instrument (1)	Proper Stamp Duty (2)
59. **SHARE WARRANTS** to bearer issued under the Companies Act, 1956.	One-and-a-half times the duty payable on a mortgage deed with possession No. 40 (a) for the amount equal to the nominal amount of the shares specified in the warrant.
Exemptions Share warrant when issued by a Company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment, as composition for that duty, to the Collector of Stamp Revenue of— (a) One-and-a-half per centum of the whole subscribed capital of the company; or (b) if any company which has paid the said duty or composition in full subsequently issues an addition to its subscribed capital, one-and-a-half per centum of the additional capital so issued. SCRIP. See Certificate (No. 19).	
60. **SHIPPING ORDER** for or relating to the conveyance of goods on board of any vessel.	Ten paise.
61. **SURRENDER OF LEASE**—	
(a) when the duty with which the lease is chargeable does not exceed ten rupees;	The duty with which such lease is chargeable.
(b) in any other case.	Ten rupees.
Exemption Surrender of lease, when such lease is exempted from duty.	
62. **TRANSFER** (whether with or without consideration)—	
(a) of shares in an incorporated company or other body corporate;	See Schedule I.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a debenture (No. 27) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance;	One-half of the duty which such bond, mortgage-deed or policy of insurance is chargeable subject to a maximum of fifty rupees.
(d) of any property under the Administrators-General Act, 1961, sec. 25;	Fifteen rupees.
(e) of any trust-property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	Seven rupees fifty paise or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.
Exemptions Transfer by endorsement— (a) of a bill of exchange, cheque or promissory note; (b) of a bill of lading, delivery, order, warrant for goods or other merchantile document of title to goods; (c) of a policy of insurance; (d) of securities of the Central Government. See also section 8.	
63. **TRANSFER OF LEASE** by way of assignment and not by way of under-lease:	The same duty as is leviable on a conveyance under clause (a) or (b), as the case may be, or article 23 for consideration equal to the amount of the consideration for the transfer.
Exemption Transfer of any lease exempt from duty.	

Description of Instrument (1)	Proper Stamp Duty (2)
64. TRUST—	
(a) Declaration of—of, or concerning, any property when made by any writing not being a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding thirty rupees.
(b) Revocation of—of, or concerning any property when made by any instrument other than a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument, but not exceeding twenty rupees.
See also Settlement (No. 58).	
VALUATION—See Appraisement (No. 8).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Seventy five paise.

HIMACHAL PRADESH

Himachal Pradesh was a Union territory until it was raised to statehood by the State of Himachal Pradesh Act, 1970 (53 of 1970) with effect from 25-1-1971. With effect from 1-4-1964, Sch. I-A as in force in the then State of Punjab, as on 28-11-1960, was extended to the said Union territory by G.S.R. 508 dated 23-3-1964. Said Schedule was substituted by the Indian Stamp (Him. Pra. Amendment) Act, 1970 (Him. Pra. Act 16 of 1970). That Act also extended the Stamp Act as amended by Him. Pra. Act 3 of 1953 to areas added to Himachal Pradesh by the Punjab Reorganisation Act, 1966 (31 of 1966), Section 5.

"SCHEDULE I-A

STAMP DUTY ON CERTAIN INSTRUMENTS

Note.—The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I.

Description of Instrument (1)	Proper Stamp Duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt, in any book (other than a banker's passbook) or on a separate piece of paper when such book or paper is left in the creditor's possession:	Twenty-five paise.
Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	
2. ADMINISTRATION BOND, including a bond given under section 6 of the Government Savings Bank Act, 1873, or sections 291, 375 and 376 of the Indian Succession Act, 1925—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case ..	Fifteen rupees.
3. ADOPTION DEED, that is to say, any instrument (other than a Will), recording an adoption, or conferring or purporting to confer an authority to adopt.	Thirty-seven rupees fifty paise.

Description of Instrument (1)	Proper Stamp Duty (2)
ADVOCATE—See entry as an Advocate (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Three rupees.
Exemptions	
Affidavit or declaration in writing when made—	
(a) as a condition of enrolment under the Army Act, 1950; or Air Force Act, 1950;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Forty paise.
(b) if relating to the sale of a Government Security or share in an incorporated company or other body corporate;	Subject to a maximum of twenty-two rupees and fifty paise, twenty-five paise for every Rs. 10,000 or part thereof of the value of the security or share.
(c) if not otherwise provided for.	Two rupees twenty-five paise.
Exemptions	
Agreement or Memorandum of Agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43;	
(b) made in the form of tenders to the Central Government for or relating to any loan.	
AGREEMENT TO LEASE—See Lease (No. 35).	
6. AGREEMENT relating to Deposit of Title Deeds, Pawn or Pledge, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title deeds, or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	
(i) when the amount of loan or debt does not exceed Rs. 200.	Sixty paise.
(ii) when it exceeds Rs. 200, but does not exceed Rs. 400,	One rupee twenty paise.
when it exceeds Rupees 400 but does not exceed Rs. 600,	One rupee sixty-five paise.

Description of Instrument (1)	Proper Stamp Duty (2)
when it exceeds Rupees 600, but does not exceed Rs. 800.	One rupee ninety-five paise.
when it exceeds Rupees 800, but does not exceed Rs. 1,000.	Two rupees, seventy paise.
when it exceeds Rupees 1,000, but does not exceed Rupees 1,200,	Three rupees, thirty paise.
when it exceeds Rupees 1,200, but does not exceed Rs. 1,600,	Four rupees twenty paise.
when it exceeds Rupees 1,600, but does not exceed Rs. 2,500,	Six rupees thirty paise.
when it exceeds Rupees 2,500, but does not exceed Rs. 5,000,	Twelve rupees, seventy-five paise.
when it exceeds Rupees 5,000, but does not exceed Rs. 7,500,	Eighteen rupees seventy-five paise.
when it exceeds Rupees 7,500, but does not exceed Rs. 10,000,	Twenty-four rupees forty-five paise.
when it exceeds Rupees 10,000, but does not exceed Rs. 15,000,	Thirty-seven rupees ninety-five paise.
when it exceeds Rupees 15,000, but does not exceed Rs. 20,000.	Forty-nine rupees, ninety-five paise.
when it exceeds Rupees 20,000, but does not exceed Rs. 25,000,	Sixty-one rupees, ninety-five paise.
when it exceeds Rupees 25,000, but does not exceed Rs. 30,000	Seventy-six rupees five paise.
and for every additional Rs. 10,000, or part thereof in excess of Rs. 30,000.	Twenty-four rupees forty-five paise.
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.
Exemption	
Instrument of pawn or pledge of goods if unattested.	
7. APPOINTMENT IN EXECUTION of a power, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.	Thirty-seven rupees fifty paise.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 16) for such amount.
(b) in any other case.	Fifteen rupees.
Exemptions	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or ser-	As in Schedule I.

Description of Instrument (1)	Proper Stamp Duty (2)
vant placed with any master to learn any profession, trade or employment not being Articles of Clerkship (No. 11).	
Exemption	
Instrument of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of, any public charity .	
10. ARTICLES OF ASSOCIATION OF A COMPANY—	
(a) when the authorised capital of the company does not exceed one lakh;	Sixty rupees.
(b) in other cases.	One hundred and twenty rupees.
Exemption	
Articles of any Association not formed for profit and registered under section 25 of the Companies Act, 1956.	
See also Memorandum of Association of a Company (No. 39).	
11. ARTICLES OF CLERKSHIP—	As in Schedule I.
ASSIGNMENT—See Conveyance (No. 23), Transfer (No. 62) and Transfer of Lease (No. 63), as the case may be.	
ATTORNEY—See entry as an Attorney (No. 30), and Power-of-attorney (No. 48).	
AUTHORITY TO ADOPT—See Adoption Deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) if it exceeds Rs. 1,000, but does not exceed Rs. 5,000;	Fifteen rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee fifteen paise subject to a maximum of one hundred and twelve rupees fifty paise.
13. BILL OF EXCHANGE.	As in Schedule I.
14. BILL OF LADING (including a through bill of lading).	As in Schedule I.
15. BOND as defined by section 2 (5), not being a Debenture (No. 27), and not being otherwise provided for by this Act or by the Court-fees Act, 1870—	
where the amount or value secured does not exceed Rs. 10;	Thirty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Sixty paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee fifteen paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees twenty-five paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees forty paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Four rupees fifty paise.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Five rupees, sixty-five paise.

Description of Instrument. 1	Proper Stamp-duty. 2
where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten rupees fifty paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees fifty paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees fifty paise.
See Administration Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).	
Exemption	
Bond when executed by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or to any other object of public utility, shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on a security of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10;	Thirty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Sixty paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee fifteen paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees twenty-five paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees forty paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Four rupees fifty paise.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Five rupees sixty-five paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Six rupees seventy-five paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Seven rupees ninety paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Nine rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Ten rupees fifteen paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Eleven rupees twenty-five paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees sixty-five paise.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled) if attested and not otherwise provided for.	Fifteen rupees.
See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.

Description of Instrument 1	Proper Stamp Duty 2	
19. **CERTIFICATE OR OTHER DOCUMENT** evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	Forty paise.	
20. **CHARTER PARTY,** that is to say, any instrument (except an agreement for the hire of a tug steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the Charterer, whether it includes a penalty clause or not.	Three rupees.	
22. **COMPOSITION DEED,** that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Thirty rupees.	
23. **CONVEYANCE,** as defined by section 2 (10) not being a Transfer charged or exempted under No. 62.	(a) Where conveyance amounts to sale of immovable property;	(b) Other conveyances.
Where the value or amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Three rupees	One rupee and fifty paise.
Where it exceeds Rs. 50, but does not exceed Rs. 100;	Six rupees	Three rupees.
Where it exceeds Rs. 100; but does not exceed Rs. 200;	Twelve rupees	Six rupees.
where it exceeds Rs. 200, but does not exceed Rs. 300:	Eighteen rupees	Nine rupees.
Where it exceeds Rs. 300, but does not exceed Rs. 400;	Twenty four rupees	Twelve rupees.
Where it exceeds Rs. 400, but does not exceed Rs. 500;	Thirty rupees	Fifteen rupees.
Where it exceeds Rs. 500, but does not exceed Rs. 600;	Thirty-six rupees	Eighteen rupees,
Whers it exceeds Rs. 600, but does not exceed Rs. 700;	Forty-two rupees	Twenty-one rupees.
Where it exceeds Rs. 700, but does not exceed Rs. 800;	Forty-eight rupees	Twenty four rupees
Where it exceeds Rs. 800, but does not exceed Rs. 900;	Fifty-four rupees	Twenty-seven rupees.
Where it exceeds Rs. 900, but does not exceed Rs. 1000;	Sixty rupees	Thirty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Thirty rupees	Fifteen rupees.
Exemption		
Assignment of copyright under the Copyright Act, 1957, Section 18.		
CO-PARTNERSHIP DEED — See Partnership (No. 46).		
24. **COPY OR EXTRACT** certified to be true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—		
(i) if the original was not chargeable with duty or if the duty with	One rupee fifteen paise.	

Description of Instrument 1	Proper Stamp-duty 2
which it was chargeable does not exceed two rupees; (ii) in any other case not falling within the provisions of section 6-A.	Three rupees.
Exemptions (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose. (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid— (a) if the duty with which the original instrument is chargeable does not exceed two rupees; (in) in any other case not falling within the provisions of section 6-A.	One rupee, fifteen paise. Three rupees.
Exemption Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	
26. CUSTOMS BONDS— (a) where the amount does not exceed Rs. 1,000 ; (b) in any other case.	The same duty as a Bond (No. 15) for such amount. Fifteen rupees.
27. DEBENTURE (Whether a mortgage debenture or not), being a marketable security transferable— (a) by endorsement or by a separate instrument of transfer; (b) by delivery.	As in Schedule I. As in Schedule I.
Explanation.—The term 'Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders, provided that the debentures so issued are expressed to be issued in terms of the said mortgage deed. See also Bond (No. 15) and sections 8 and 55. Declaration of any Trust—See Trust (No. 64).	
28. DELIVERY ORDER IN RESPECT OF GOODS, DEPOSIT OF TITLE DEEDS —See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	Twenty-five paise.
DISSOLUTION OF PARTNERSHIP — See Partnership (No. 46).	
29. DIVORCE, instrument of —, that is to say, an instrument by which any person effects the dissolution of his marriage.	Thirty rupees.
DOWER, instrument of—See Settlement (No. 58).	
DUPLICATE—See Counterpart (No. 25).	

Description of Instrument 1	Proper Stamp-duty 2
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF THE HIGH COURT—	
(a) in the case of an Advocate or Vakil;	Seven hundred and fifty rupees.
(b) in the case of an Attorney.	Seven hundred and fifty rupees.
Exemption	
Entry of an Advocate, Vakil or Attorney on the roll of the High Court, when he has previously been enrolled in any other High Court.	
31. EXCHANGE OF PROPERTY, Instrument of—	The same duty as a Conveyance (No. 23) as levied by this Act for consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT—See Copy (No. 24).	
32. FURTHER CHARGE, Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the descriptions referred to in clause (a) of Article No. 40, that is, with possession.	The same duty as a mortgage deed with possession (No. 40 (a)) for the amount equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in cl. (h) of Article 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a mortgage deed with possession (No. 40 (a)) for the amount equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a Settlement (No. 58), or Will or Transfer (No. 62).	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT or Agreement for Service—See Agreement (No. 5).	
34. INDEMNITY BOND	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP-DEEDS. See Composition-deed (No. 22).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year, but not more than five years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding 10 years, but not exceeding 20 years;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to twice the amount or value of the average annual rent reserved.

Description of Instrument 1	Proper Stamp-duty 2
(v) where the lease purports to be for a term exceeding 20 years but not exceeding 30 years;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding 30 years, but not exceeding 100 years;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding 100 years or in perpetuity;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal in the case of a lease granted solely for agricultural purposes to 1/10th and in any other case to 1/16th of the whole amount of rents which would be paid or delivered in respect of the first fifty years of lease.
(viii) where for the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced, in addition to rent reserved.	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the ad valorem Stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee and fifty paise.
Exemption Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank. Explanation.—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
36. LETTER OF ALLOTMENT OF SHARES	Thirty Paise.
37. LETTER OF CREDIT LETTER OF GUARANTEE.— See Agreement (No. 5).	As in Schedule I.
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and	Thirty rupees.

Description of Instrument 1	Proper Stamp-duty 2
his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	
39. Memorandum of Association of a Company:—	
(a) If accompanied by articles of association under Sections 26, 27 and 28 of the Companies Act, 1956;	Sixty rupees.
(b) If not so accompanied.	One hundred and fifty rupees.
Exemption	
Memorandum of any association not formed for profit and registered under sec. 25 of the Companies Act, 1956.	
40. MORTGAGE-DEED, not being an agreement relating to Deposit of Title deeds, Pawn or Pledge (No. 6), Bottomry Bond (No 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57),—	
(a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given—	
Where the amount secured by such instrument does not exceed Rs. 50,	One rupee, fifteen paise.
where it exceeds Rs. 50, but does not exceed Rs. 100;	Two rupees, twenty-five paise.
where it exceeds Rs. 100, but does not exceed Rs. 200;	Four rupees, fifty paise.
where it exceeds Rs. 200, but does not exceed Rs. 300;	Six Rupees, seventy-five paise.
where it exceeds Rs. 300, but does not exceed Rs. 400;	Nine rupees.
where it exceeds Rs. 400, but does not exceed Rs. 500;	Eleven rupees Twenty-five paise.
where it exceeds Rs. 500, but does not exceed Rs. 600;	Thirteen rupees, fifty paise.
where it exceeds Rs. 600, but does not exceed Rs. 700;	Fifteen rupees, seventy-five paise.
where it exceeds Rs. 700, but does not exceed Rs. 800;	Eighteen rupees.
where it exceeds Rs. 800, but does not exceed Rs. 900;	Twenty rupees, twenty-five paise.
where it exceeds Rs. 900, but does not exceed Rs. 1,000;	Twenty-two rupees, fifty paise.
and for every Rs. 500 or part thereof in excess of Rs. 1000;	Eleven rupees, twenty-five paise.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.— A mortgagor who gives to the mortgagee a Power-of-Attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article;	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purposes where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	One rupee, fifteen paise
and for every Rs. 1000 or part thereof secured in excess of Rs. 1,000.	One rupee, fifteen paise.
Exemptions	
Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists	

Description of Instrument 1	Proper Stamp-duty 2
Loans Act, 1884 or by their sureties as security for the repayment of such advances.	
41. MORTGAGE OF A CROP, including instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop whether the crop is or is not in existence at the time of the mortgage—	
(a) When the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Fifteen paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Fifteen paise.
(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument.—	
for every sum secured not exceeding Rs. 100;	Thirty paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	
See also Protest of Bill or Note (No. 50).	
43. NOTE OR MEMORANDUM, sent by a Broker or Agent to his Principal intimating the purchase or sale on account of such Principal—	
(a) of any goods exceeding in value twenty rupees;	Forty paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of thirty rupees, thirty paise, for every Rs. 10.000 or part thereof of the value of the stock or security.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Seventy-five paise.
45 PARTITION, instrument of, as defined by section 2 (15).	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. N. B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee, fifteen paise; (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than ten times the annual revenue;

Description of Instrument 1	Proper Stamp-duty 2
	(c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such orders or award is subsequently executed, the duty on such instrument shall not exceed one rupee, fifteen paise.
46. PARTNERSHIP—	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 500;	Three rupees, seventy-five paise.
(b) in any other case.	Twenty-two rupees, fifty paise.
B.—Dissolution of—	
PAWN OR PLEDGE—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6).	Fifteen rupees.
47. POLICY OF INSURANCE.	As in Schedule I.
48. POWER-OF-ATTORNEY, [as defined by section 2 (21)], not being a Proxy (No. 52),—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee, fifty paise.
(b) when required in suits or proceedings under Presidency Small Cause Courts Act, 1882;	One rupee, fifty paise.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in cl. (a);	Three rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Fifteen rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) as levied by this Act for the amount of consideration.
(g) in any other case.	Three rupees for each person authorised.
Explanation.— For the purpose of this article more persons than one when belonging to the same firm shall be deemed to be one person.	N. B.—The term "registration" includes every operation, incidental to registration under the Indian Registration Act, 1908.
49. PROMISSORY NOTE	As in Schedule I.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Three Rupees.
51. PROTEST BY THE MASTER OF A SHIP	As in Schedule I
52. PROXY	As in Schedule I.

Description of Instrument 1	Proper Stamp-duty 2
53. RECEIPT	As in Schedule I.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) as levied by this Act, for the amount of such consideration as set forth in the re-conveyance.
(b) in any other case—	
(i) if the reconveyance relates to immovable property situate within a Municipality, Canton-ment Board, Small Town or Notified Area;	Forty-five rupees.
(ii) in other cases.	Thirty rupees.
55. RELEASE, that is to say, any instru-ment (not being such a release as is pro-vided for by section 23-A) whereby a person renounces a claim upon another person or against any specified pro-perty—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Re-lease.
(b) in any other case.	Fifteen rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as Bottomry Bond (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SET-TLEMENT—See Settlement (No. 58), Trust (No. 64).	
57. SECURITY-BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a con-tract, or the discharge of a liability—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case.	Fifteen rupees.
Exemptions	
Bond or other instrument when executed—	
(a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospi-tal or any other object of public utility, shall not be less than a spe-cified sum per mensem;	
(b) by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturist's Loans Act, 1884, or by their sureties, as secu-rity for the repayment of such ad-vances;	
(c) by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property receiv-ed by virtue thereof.	
58. SETTLEMENT—	
A.—Instrument of (including a deed of dower).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settle-ment.

Description of Instrument 1	Proper Stamp-duty 2
Exemption	
Deed of dower executed on the occasion of a marriage between Muhammadans.	
B.—Revocation of— See also Trust (No. 64).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation but not exceeding thirty rupees.
59. SHARE WARRANTS to bearer issued under the Companies Act, 1956.	One-and-a-half times the duty payable on a mortgage-deed with possession (No. 40 (a)) for the amount equal to the nominal amount of the shares specified in the warrant.
Exemptions	
Share warrant when issued by a company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment, as composition for that duty, to the Collector of stamp revenue of— (a) one-and-a-half percentum of the whole subscribed capital of the company; or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—One-and-a-half percentum of the additional capital so issued.	
60. SHIPPING ORDER	Fifteen paise.
61. SURRENDER OF LEASE— (a) when the duty with which the lease is chargeable does not exceed ten rupees; (b) in any other case.	The duty with which such lease is chargeable. Fifteen rupees.
Exemption	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(a) of shares in an incorporated company or other body corporate;	As in Schedule I.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a debenture (No. 27) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance;	One-half of the duty with which such bond, mortgage-deed or policy of insurance is chargeable subject to a maximum of seventy-five rupees.
(d) of any property under the Administrator General's Act, 1913, sec. 25;	Twenty-two rupees, fifty paise.
(e) of any trust-property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	Eleven rupees, twenty-five paise or such smaller amount as may be chargeable under clauses (a) to (c) of this article.
Exemptions	
Transfers by endorsement— (a) of a bill of exchange, cheque or promissory note; (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods; (c) of a policy of insurance; (d) of securities of the Central Government See also section 8.	

Description of Instrument 1	Proper Stamp-duty 2
63. TRANSFER OF LEASE by way of assignment, and not by way of under-lease.	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount of the consideration for the transfer.
Exemption	
TRANSFER of any lease exempt from duty.	
64. TRUST—	
A.—Declaration of—of, or concerning any property when made by any writing not being a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding forty-five rupees.
B.—Revocation of—of, or concerning any property when made by any instrument other than a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding thirty rupees.
See also Settlement (No. 58) Valuation.	
See Appraisement (No. 8) Vakil—See entry as Vakil (No. 30).	
WARRANT FOR GOODS, that is to say, any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	One rupee, fifteen paise.

MADHYA PRADESH

NOTE.— The present State of Madhya Pradesh is comprised of five regions, namely, Bhopal region, Madhya Bharat region, Mahakoshal region, Sironj region and Vindhya Pradesh region. This new State of Madhya Pradesh came into existence on the appointed day, that is, the 1st of November, 1956, by virtue of the provisions contained in Section 9 of the States Reorganisation Act, 1956 (XXXVII of 1956). Different stamp-laws prevailed in these different five regions and by virtue of Section 119 of the Reorganisation Act, the change in the territory had not the effect of introducing any change in the existing stamp-law even after the appointed day, until otherwise provided by a competent Legislature or other competent authority. For instance, while in the Mahakoshal region of this new State of Madhya Pradesh the Principal Act, namely the Indian Stamp Act, 1899 (II of 1899), as amended in its application to the former State of Madhya Pradesh (that is, C. P. and Berar) from time to time, prevailed, simultaneously the Madhya Bharat region of the new State of Madhya Pradesh was having its own stamp law, namely, the Indore Stamp Act, 1907, as adopted in the Madhya Bharat by M. B. Indore Stamp Act Adoption Act, Smt. 2006.

However this pentarchy in the region of stamp-law did not continue to have its hold for any sizeable period. Exactly one year after the birth of the new State of Madhya Pradesh, the Madhya Pradesh Taxation Laws (Extension) Act, 1957 (M. P. XVIII of 1957), which received the assent of the President on the 23rd of September, 1957, was brought into force on and from the 1st of November, 1957. By section 3 of this M. P. Act, the principal Act as in force in the Mahakoshal region was extended to and brought into force in the other regions of the said State. And by the provisions contained in S. 6 of the said M. P. Act all the corresponding law that was in force in the said other regions was, subject to a saving clause, repealed. Thus, since the 1st of November, 1956, there is

now a uniformity in the whole of the State of Madhya Pradesh so far as the stamp law is concerned.

Increase in stamp-duty.— Formerly, section 7 of the C. P. and Berar Finance (Annual) Act, 1947, had imposed a levy by way of surcharge on the amount of stamp-duty payable on instruments under the principal Act, as amended in its application to the Mahakoshal region of the State. The provisions relating to increase in stamp-duty contained in the said Finance Act have been repealed on the 31st of March, 1948, by Section 4 of the C. P. and Berar Indian Stamp (Amendment) Act, 1948 (C. P. and Berar VI of 1948).

There was a transfer-tax imposed by Section 2 of the City of Jubbulpore (Improvement Duty) Act, 1948 on the instrument of sale, gift and usufructuary mortgage of immovable property executed in respect of property situated within the limits of the City of Jubbulpore. The City of Jubbulpore (Improvement Duty) Act, 1948 is repealed on and from 20th May, 1961 by Section 5 (1) of the Madhya Pradesh Municipal Corporation Law (Extension) Act, 1960 (M. P. XIII of 1961). By this M. P. Act XIII of 1961, Sec. 133-A is inserted in the Madhya Pradesh Municipal Corporation Act, 1956 (formerly known as Madhya Bharat Municipal Corporation Act, 1956). Section 133-A seeks to impose additional stamp-duty on transfer of immovable property. It runs as follows:—

"**133A. Power to impose additional stamp-duty on transfer of immovable property.**— (1) The duty imposed by the Indian Stamp Act, 1899 on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property, shall in the case of instruments affecting immovable property situated within the limits of any Corporation and executed on or after the date on which provisions of this Act are made applicable to such limits be increased by two per centum on the value of the property so situated, or in the case of a usufructuary mortgage on the amount secured by the instrument, as set forth in the instrument.

(2) For the purpose of this section, section 27 of the Indian Stamp Act, 1899, shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect thereof—

(a) property situate in the Corporation area;

(b) property not situated in the Corporation area.

(3) The State Government shall every year pay to each Corporation from the Consolidated Fund of the State a grant-in-aid approximately equal to the extra duty realised under sub-s. (1) in respect of the property situate within the area of each such Corporation after making such deductions on account of cost of collection as the State Government determine.

(4) The State Government may make rules for carrying out the purposes of this section."

Schedule IA.— In place of Sch. IA inserted by section 12 of the C. P. and Berar Indian Stamp (Amendment) Act, 1939 (C. P. VI of 1939) a new Schedule IA is substituted by S. 3 of the C P. and Berar Indian Stamp (Amendment) Act, 1948 (C. P. VI of 1948). This new schedule is subsequently amended by M. P. Acts XVIII of 1957, XVIII of 1958 and X of 1960. The proper stamp-duty expressed formerly in old coinage is now directed to be expressed and paid in the new coinage of naye paise by M. P. Act XVIII of 1958, which was brought into force on 1st of October, 1958. Under this new schedule as inserted in 1948 read with section 3 of the Madhya Pradesh Taxation Laws (Extension) Act, 1957, the instruments executed or brought in the whole of the State of Madhya Pradesh are to be charged at the rate indicated therein on and from the 1st of November, 1957. Schedule IA, as amended by subsequent Acts, is given below.

Sch. I-A was substituted by the Indian Stamp (M. P. Amendment) Act, 1967 (28 of 1967). S. 2 (23-12-1967) and was further amended by M. P. Act 20 of 1972, S. 2 (1-8-1972).

SCHEDULE IA

STAMP-DUTY ON CERTAIN INSTRUMENTS UNDER THE CENTRAL PROVINCES AND BERAR INDIAN STAMP (AMENDMENT) ACT, 1939

(See section 3, First Proviso.)

(Note.—The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I.)

Description of Instrument 1	Proper Stamp-duty 2
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest, or to deliver any goods or other property.	Twenty-five paise.
2. ADMINISTRATION-BOND, including a bond given under section 291, 375 or 376 of the Indian Succession Act, 1925 (XXXIX of 1925), or section 6 of the Government Savings Banks Act, 1873 (V of 1873).	The same duty as a Bond (No. 15) for such amount.
3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording an adoption, or conferring or purporting to confer an authority to adopt.	Thirty rupees.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing. **Exemptions** Affidavit or declaration in writing when made— (a) as a condition of enrolment under the Indian Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950); (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	Four rupees.
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT— (a) if relating to the sale of a bill of exchange; (b) if relating to the sale of a Government security or share in an incorporated company or other body corporate; (c) if not otherwise provided for. **Exemptions** Agreement or memorandum of an agreement— (a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 43; (b) made in the form of tenders to the Central Government for, or relating to, any loan; AGREEMENT TO LEASE, see Lease (No. 35).	Fifty paise. Subject to a maximum of forty rupees, thirty for every Rs. 10,000 or part thereof, of the value of the security or share. Two rupees and twenty-five paise.
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR	

Description of Instrument 1	Proper Stamp-duty 2
PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposits of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	

	If drawn singly. Rs. nP.	If drawn in set of two for each part of the set, Rs. nP.	If drawn in set of three for each part of the set. Rs. nP.
(i) when the amount of the loan or debt does not axceeed Rs. 100	0 25	0 15	0 15
(ii) when the amount of the loan or debt exceeds Rs. 100 but does not exceed Rs. 200	0 40	0 25	0 10
(iii) when it exceeds			
Rs. 200 but does not exceed Rs. 400	0 75	0 35	0 25
400 Do 600	1 10	0 60	0 35
600 Do 800	1 50	0 75	0 50
800 Do 1,000	1 85	1 00	0 60
1,000 Do 1,200	2 25	1 10	0 75
1,200 Do 1,600	3 00	1 50	1 00
1,600 Do 2,500	4 50	2 25	1 50
2,500 Do 5,000	9 00	4 50	3 00
5,000 Do 7,500	13 35	6 75	4 50
7,500 Do 10,000	18 00	9 00	6 00
10,000 Do 15,000	27 00	13 50	9 00
15,000 Do 20,000	36 00	18 00	12 00
20,000 Do 25,900	45 00	22 50	15 00
25,000 Do 30,000	54 00	27 00	18 00
and for every additional Rs. 10, 000 or part thereof in excess of Rs. 30,000	18 00	9 00	6 00
(b) if such loan or debt is repayable not more than three months from the date of such instrument—			
(i) when the amount of the loan or debt does not exceed Rs. 100.	0 15	0 10	0 5
(ii) when the amount of the loan or debt exceeds Rs. 100 but does not exceed Rs. 200.	0 20	0 15	0 5
(iii) when it exceeds			
Rs. 200 but does not exceed Rs. 400	0 40	0 20	0 15
400 Do 600	0 55	0 30	0 20
600 Do 800	0 75	0 40	0 25
800 Do 1,000	0 95	0 50	0 30
1,000 Do 1,200	1 15	0 55	0 40
1,200 Do 1,600	1 50	0 75	0 50
1,600 Do 2,500	2 25	1 15	0 75
2,500 Do 5,000	4 50	2 25	1 50
5,000 Do 7,500	6 70	3 40	2 25
7,500 Do 10,000	9 00	4 50	3 00
10,000 Do 15,000	13 50	6 75	4 50
15,000 Do 20,000	18 00	9 00	6 00
20,000 Do 25,000	22 50	11 25	7 50
25,000 Do 30,000	27 00	13 50	9 00
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30, 000	9 00	4 50	3 00.

Description of Instrument 1	Proper Stamp-duty 2
7. APPOINTMENT IN EXECUTION OF A POWER whether of trustees or of property, movable or immovable, where made by any writing not being a Will.	Thirty-five rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case.	Twenty-two rupees fifty paise.
Exemptions	
(a) Appraisement or valuation made for the information of one party only and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11).	Ten rupees.
Exemptions	
Instrument of apprenticeship executed by a Magistrate under the Apprentices Act, 1961 (LII of 1961), or by which a person is apprenticed by or at the charge of any public charity.	
10. ARTICLES OF ASSOCIATION OF A COMPANY.	One hundred and fifty rupees.
Exemption	
Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1913 (VII of 1913) or section 25 of Companies Act, 1956 (1 of 1956).	
See also Memorandum of Association of a company (No. 39).	
11. ARTICLES OF CLERKSHIP OR CONTRACT, whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Three hundred and thirty-three rupees, thirty-five paise.
ASSIGNMENT, see Conveyance (No. 23), Transfer (No. 62), and Transfer of Lease (No. 63), as the case may be.	
ATTORNEY, see Power-of-attorney (No. 48).	
AUTHORITY TO ADOPT, see Adoption-deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of suit—	
(a) where the amount or value of the property which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as Bond (No. 15) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Twenty-two rupees and fifty paise.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000;	One rupee and fifty paise subject to a maximum of one hundred and fifty rupees.
(c) where the subject-matter of award is incapable of valuation.	Twenty-two rupees fifty paise.
13. ...	...
14. ...	...

Description of Instrument 1	Proper Stamp-duty 2
*[15. **BOND,** as defined by section 2 (5), not being a Debenture and not being otherwise provided for by this Act, or by the Court-fees Act, 1870 (VII of 1870):—	
where the amount or value secured does not exceed Rs. 10;	25 paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	75 paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee fifty paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Three rupees.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Five rupees.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Eight rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Eleven rupees.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Thirteen rupees.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Sixteen rupees.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Eighteen rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Twenty rupees.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Twenty-two rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Eleven rupees.
See Administration Bond (No. 2), Bond (No. 15), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).	
Exemption	
BOND, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.]	
[*] Substituted by M. P. Act XX of 1972, Section 2 (a) (1-8-1972).	
16. **BOTTOMRY BOND,** that is to say, any instrument whereby the master of a seagoing ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for the same amount.
17. **CANCELLATION** — Instrument of (including any instrument by which instrument previously executed is cancelled), if attested and not otherwise provided for.	Fifteen rupees.
See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	
18. **CERTIFICATE OF SALE** (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector of other Revenue Officer—	
(a) where the purchase money does not exceed Rs. 10;	Thirty-five paise.

Description of Instrument 1	Proper Stamp-duty 2
(b) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25;	Seventy-five paise.
(c) in any other case.	The same duty as a Conveyance (No. 23) for consideration equal to the amount of purchase money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any share, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	Thirty paise.
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Two rupees sixty paise.
21 * * * * *	
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Thirty rupees.
*[**23. CONVEYANCE,** not being a transfer charged or exempted under No. 62—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	One rupee.
where it exceeds—	
Rs. 50 but does not exceed Rs. 100;	Two rupees fifty paise.
Rs. 100 but does not exceed Rs. 200;	Five rupees.
Rs. 200 but does not exceed Rs. 300;	Eleven rupees.
Rs. 300 but does not exceed Rs. 400;	Fifteen rupees.
Rs. 400 but does not exceed Rs. 500;	Twenty rupees.
Rs. 500 but does not exceed Rs. 600;	Twenty-four rupees.
Rs. 600 but does not exceed Rs. 700;	Twenty-eight rupees.
Rs. 700 but does not exceed Rs. 800;	Thirty-one rupees.
Rs. 800 but does not exceed Rs. 900;	Thirty-five rupees.
Rs. 900 but does not exceed Rs. 1,000;	Forty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Twenty rupees.
Exemption	
Assignment of copyright under the Indian Copyright Act, 1957 (14 of 1957), S. 18.	
CO-PARTNERSHIP DEED, see Partnership (No. 46).	
[*] Substituted by M. P. Act XX of 1972, Section 2 (b) (1-8-1972).	
24. COPY OR EXTRACT, certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty, or if the duty with	Two rupees twenty-five paise.

Description of Instrument 1	Proper Stamp-duty 2
which it was chargeable does not exceed two rupees twenty-five paise	
(ii) in any other case.	Three rupees.
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed one rupee fifty naye paise;	The same duty as is payable on the original.
(b) in any other case.	Three rupees.
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case.	Three rupees.
27. ° ° ° ° °	
See also Bond (No. 15), and sections 8 and 55.	
DECLARATION OF ANY TRUST, see Trust (No. 64).	
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	Ten paise.
DEPOSIT OF TITLE DEEDS, see Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	
DISSOLUTION OF PARTNERSHIP, See Partnership (No. 46).	
29. DIVORCE, INSTRUMENT OF, that is to say, any instrument by which any person effects the dissolution of his marriage.	Twenty-six rupees sixty-five paise.
DOWER, INSTRUMENT OF, see Settlement (No. 58).	
DUPLICATE, see Counterpart (No. 25).	
30. ° ° ° ° °	
31. EXCHANGE OF PROPERTY — Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.

Description of Instrument 1	Proper Stamp-duty 2
EXTRACT, see Copy (No. 24).	
32. FURTHER CHARGE, Instrument of, that is to say, any instrument imposing a further charge on mortgage property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given, or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT — Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT OR AGREEMENTS FOR SERVICE, See Agreement (No. 5).	
34. INDEMNITY BOND.	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP DEED, see Composition Deed (No. 22).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year, but not more than five years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of one and half times the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years;	The same duty as a Conveyance (No. 23) for a consideration equal to five times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;	The same duty as a Conveyance (No. 23) for a consideration equal to eight times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceed-	The same duty as a Conveyance (No. 23) for a consideration equal to one-fourth of the

Schedule 1A — Article 33 Note 1

(1) Document executed by father of joint family consisting of father and son releasing his interest in part of joint property in favour of his only son — It is gift deed and not release. 1952 Nag LJ 440 (444) (Rev).

Description of Instrument (1)	Proper Stamp-duty (2)
ing one hundred years or in perpetuity; (viii) where the lease does not purport to be for any definite term;—	whole amount of rent which would be paid or delivered in respect of the first fifty years of the lease.
(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved:	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease.
Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee thirty-five naye paise.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered:
Exemption Lease, executed in the case of a cultivator and for the purposes of cultivation including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. **Explanation.**—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	**Twenty paise.**
37. * * * * * * * * * * *	
LETTER OF GUARANTEE, see Agreement (No. 5).	
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	**Thirty rupees.**
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under section 17 of the Indian Companies Act, 1913 (VII of 1913) or sections 26, 27 and 28 of the Companies Act, 1956 (1 of 1956);	**Ninety rupees.**
(b) if not so accompanied.	**One hundred and sixty-five rupees.**

Description of Instrument (1)	Proper Stamp Duty (2)
Exemption	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1913 (VII of 1913) or Section 25 of Companies Act, 1956 (1 of 1956).	
40. MORTGAGE DEED, not being an agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6), Bond (No. 15), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor, who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article;	
(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Two rupees twenty-five paise.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Two rupees twenty-five paise.
Exemptions	
(1) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884), or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Twenty paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Twenty paise.
(b) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Thirty paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Thirty paise.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation,	Three rupees and fifty paise.

Description of Instrument (1)	Proper Stamp-duty (2)
certificate or entry not being a Protest (No. 50) made or signed by a notary public in the execution of duties of his office, or by any other person lawfully acting as a notary public. See also Protest of Bill or Note (No. 50).	
43. NOTE OR MEMORANDUM sent by a broker or agent to his principal intimating the purchase or sale on account of such principal— (a) of any goods exceeding in value twenty rupees; (b) of any stock or marketable security exceeding in value twenty rupees.	**Fifty paise.** Subject to a maximum of forty-five rupees thirty paise for every Rs. 10,000 or part thereof of the value of the stock or security.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP. See also Protest by the Master of a Ship (No. 51).	One rupee thirty-five paise.
45. PARTITION, INSTRUMENT OF [as defined by section 2 (15)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. **N. B.**—The largest shares remaining after the property is partitioned (for if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such a partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than two rupees; (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than fifty times the annual revenue; (c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed two rupees.
46. PARTNERSHIP— (A) Instrument of— (a) where the capital of partnership does not exceed Rs. 2,000; (b) where it exceeds Rs. 2,000 but does not exceed Rs. 5,000; (c) in any other case.	The same duty as a Bond (No. 15) for the same amount. Sixty rupees. One hundred rupees.

Description of Instrument (1)	Proper Stamp-duty (2)
B.—Dissolution of—	
PAWN OR PLEDGE, see Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	Twenty-two rupees and fifty paise.
47. * * * * *	* * * * * *
48. POWER-OF-ATTORNEY as defined by section 2 (21), not being a Proxy (No. 52)—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	Two rupees.
(b) when required in suits or proceedings under the Provincial Small Cause Courts Act, 1887, or any other law for the time being in force in any region of the State.	Two rupees.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	Three rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Fifteen rupees.
(e) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty rupees.
(f) when giving for consideration and authorizing the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23), for the amount of the consideration.
(g) in any other case.	Three rupees for each person authorised.
Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
	N. B.—The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1908.
49. * * * * *	* * * * * *
50. PROTEST OF BILL OR NOTE, that is to say, anv declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note.	Three rupees.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. (See also Note of Protest by the Master of a Ship (No. 44).)	Two rupees sixty-five paise.
52. * * * * *	* * * * * * *
53. * * * * *	* * * * * * *

Schedule I-A — Article 48, Note 1

(1) Power of attorney — Duty payable — Document on consideration held to provide for 14 distinct acts of authorisation or matters. Document held was liable to stamp duty under Sch. 1-A (M. P.) Article 48. **AIR 1956 Nag 150 (152) (SB).**

Description of Instrument (1)	Proper Stamp-duty (2)
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.
(b) in any other case.	Forty-five rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the release.
(b) in any other case.	Fifty rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT — See Settlement (No. 58); Trust (No. 64).	
57. SECURITY BOND OR MORTGAGE DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case.	Twenty-two rupees fifty paise.
Exemptions	
Bond or other instrument, when executed—	
(a) * * * * *	
(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;	
(c) by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884; or by their sureties, as security for the repayment of such advances;	
(d) by officers of the Crown or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT—	
A.—Instrument of (including a deed of dower).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such

Schedule 1A — Article 55 Note 1

(1) Document executed by father of joint family releasing his interest in part of joint property in favour of his only son — Document is gift and not a release deed. 1952 Nag LJ 440 (446) (Rev).

Description of Instrument (1)	Proper Stamp-duty (2)
	agreement is subsequently executed, the duty on such instrument shall not exceed two rupees twenty-five paise.
Exemption Deed of dower executed on the occasion of a marriage between Muhammadans.	
B.—Revocation of—.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding thirty-six rupees.
See also Trust (No. 64).	
59. SHARE WARRANTS, to bearer issued under the Indian Companies Act, 1913, or the Companies Act, 1956.	One and a half times the duty payable on a Conveyance (No. 23), for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemptions Share warrant when issued by a company in pursuance of the Indian Companies Act, 1913, S. 43, or the Companies Act, 1956, S. 114, to have effect only upon payment, as compensation for that duty, to the Collector of Stamp Revenue, of— (a) one and a half per centum of the whole subscribed capital of the company, or (b) if any company which has paid the said duty or compensation in full, subsequently issues an addition to its subscribed capital—One and a half percentum of the additional capital so issued.	
60. SHIPPING ORDER, for or relating to the conveyance of goods on board of any vessel.	Ten paise.
61. SURRENDER OF LEASE— (a) when the duty with which the lease is chargeable does not exceed seven rupees fifty paise; (b) in any other case.	The duty with which such lease is chargeable. Ten rupees.
Exemption Surrender of lease when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration—	
(a) * * * * *	* * * * * * *
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance,—	
(i) if the duty on such bond, mortgage deed or policy does not exceed five rupees;	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case;	Ten rupees.

Description of Instrument (1)	Proper Stamp-duty (2)
(d) of any property under the Administrator-General Act, 1913, section 22; (e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Twenty-six rupees sixty-five paise. Fifteen rupees or such smaller amount as may be chargeable under clauses (a) to (e) of this Article.
Exemptions Transfers by endorsement— (a) of a bill of exchange, cheque or promissory note; (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods; (c) of a policy of insurance; (d) of securities of Central Government. See also section 8.	
63. TRANSFER OF LEASE by way of assignment and not by way of underlease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption Transfer of any lease exempt from duty.	
64. TRUST—	
A.—Declaration of — of, or concerning, any property when made by any writing not being a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding seventy rupees.
B.—Revocation of — of, or concerning, any property when made by any instrument other than a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding forty-five rupees.
See also Settlement (No. 58). VALUATION—See Appraisement (No. 8).	
Exemption Charitable and religious trusts including wakf alal aulad.	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Fifty paise.

ORISSA

NOTE.—In place of the old Schedule I-A inserted by the Orissa Stamp (Amendment) Act, 1943 (Ori. VI of 1943), a new Schedule I-A is substituted by the Indian Stamp (Orissa Amendment) Act, 1958 (Ori. XIX of 1958), S. 3, which came into force with effect from the 1st October, 1958. By section 2 of this Amendment Act, the Orissa Stamp (Surcharge Amendment) Act, 1947 (Ori. XXIII of 1947) is repealed. Orissa Additional Stamp Duty Act, 1962 (34 of 1962) had levied addi-

tional duty in respect of Arts. 23, 31, 33, 35 or 40 or 58 but Orissa Act 35 of of 1962 has substituted Sch. I-A. Following Schedule I-A is as substituted by Orissa Act 9 of 1970 w. e. f. 6-4-1970 (6-4-70).

SCHEDULE I-A

STAMP-DUTY ON CERTAIN INSTRUMENTS UNDER THE INDIAN STAMP (ORISSA AMENDMENT) ACT, 1970

(See section 3)

[NOTE — The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I]

Description of Instrument 1	Proper Stamp Duty 2
1. ° ° ° ° °	° ° ° °
2. ADMINISTRATION-BOND, including a bond given under sections 291, 375 and 376 of the Indian Succession Act, 1925, or section 6 of the Government Savings Banks Act, 1873.	The same duty as a BOND (No. 15) for the same amount.
3. ADOPTION-DEED, that is to say, any instrument (other than a will), recording an adoption, or conferring or purporting to confer an authority to adopt.	Rupees Thirty.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing. Exemptions Affidavit or declaration in writing when made— (a) as a condition of enrolment under the Army Act, 1950 or the Air Force Act, 1950. (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	Rupees Four.
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT— (a) if relating to the sale of a Bill of Exchange (b) if relating to the sale of a Government security or share in an incorporated company or other body corporate; (c) if not otherwise provided for .. Exemptions (a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43; (b) made in the form of tenders to the Central Government for, or relating to any loan.	Forty paise. Subject to a maximum of rupees thirty for every ten thousand or part thereof the value of security or share. One Rupee and fifty paise.
• ° ° °	• • • • •
AGREEMENT TO LEASE — See LEASE (No. 35).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to— (1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	

Description of Instrument (1)	Proper Stamp-duty (2)
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement.	
	If drawn singly. Rs. P. / **If drawn in set of two, for each part of the set.** Rs. P. / **If drawn in set of three, for each part of the set.** Rs. P.
(i) when the amount of the loan or debt does not exceed 100	... 0.40 / 0.25 / 0.25
(ii) when the amount of the loan or debt exceeds Rs. 100 but does not exceed 200	... 0.70 / 0.40 / 0.25
(iii) when it exceeds Rs. 200 but does not exceed 400	... 1.25 / 0.70 / 0.45
when it exceeds Rs. 400 but does not exceed 600	... 1.75 / 0.90 / 0.70
when it exceeds Rs. 600 but does not exceed 800	... 2.25 / 1.25 / 0.80
when it exceeds Rs. 800 but does not exceed 1,000	... 3.00 / 1.50 / 1.00
when it exceeds Rs. 1,000 but does not exceed 1,200	... 3.25 / 1.75 / 1.25
when it exceeds Rs. 1,200 but does not exceed 1,600	... 4.25 / 2.25 / 1.50
when it exceeds Rs. 1,600 but does not exceed 2,500	... 6.50 / 3.25 / 2.25
when it exceeds Rs. 2,500 but does not exceed 5,000	... 13.00 / 6.50 / 4.50
when it exceeds Rs. 5,000 but does not exceed 7,500	... 20.00 / 10.00 / 7.00
when it exceeds Rs. 7,500 but does not exceed 10,000	... 30.00 / 15.00 / 10.00
when it exceeds Rs. 10,000 but does not exceed 15,000	... 40.00 / 20.00 / 14.00
when it exceeds Rs. 15,000 but does not exceed 20,000	... 55.00 / 30.00 / 19.00
when it exceeds Rs. 20,000 but does not exceed 25,000	... 65.00 / 35.00 / 22.00
when it exceeds Rs. 25,000 but does not exceed 30,000	... 80.00 / 40.00 / 30.00
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	... 30.00 / 15.00 / 10.00
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i), clause (a) (ii) or cl. (a) (iii), for the amount secured.
Exemption	
Instrument of pawn or pledge of goods, if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a will.	Fifty Rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a BOTTOMRY BOND (No. 16) for such amount.
(b) in any other case ...	Fifteen rupees.

Description of Instrument (1)	Proper Stamp-duty (2)
Exemptions (a) Appraisement or valuation made for the information of one party only and not being in any manner obligatory between parties either by agreement or operation of law. (b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship.	**Fifteen Rupees.**
Exemption Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850,* or by which a person is apprenticed by, or at the charge of, any public charity. [*] Now see Apprentices Act, 1931.	
10. ARTICLES OF ASSOCIATION OF A COMPANY.	**Ninety-five Rupees.**
Exemption Articles of any association not formed for profit and registered under section 25 of the Indian Companies Act, 1956. See also Memorandum of Association of a Company (No. 39).	
11.	. . . .
ASSIGNMENT — See CONVEYANCE (No. 23), TRANSFER (No. 62) and TRANSFER OF LEASE (No. 63), as the case may be.	
ATTORNEY — See POWER-OF-ATTORNEY (No. 48).	
AUTHORITY TO ADOPT — See Adoption Deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference being made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000;	The same duty as a BOTTOMRY BOND (No. 16) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Nineteen Rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee subject to a maximum of one hundred rupees.
15. BOND as defined by section 2 (5) not being a DEBENTURE and not being otherwise provided for by this Act, or by the Court-fees Act, 1870—	
where the amount or value secured does not exceed Rs. 10.	Thirty-five paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Forty-five paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees and fifty paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three Rupees and seventy-five paise.

Description of Instrument (1)	Proper Stamp-duty (2)
where it exceeds Rs. 300 and does not exceed Rs. 400;	Four Rupees and seventy-five paise.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Six Rupees.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Eight rupees, fifty paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten Rupees.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve Rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees and fifty paise.
See ADMINISTRATION BOND (No. 2), BOTTOMRY BOND (No. 16) CUSTOMS BOND (No. 26), INDEMNITY BOND (No. 34), RESPONDENTIA (No. 56), SECURITY BOND (No. 57).	
Exemptions	
Bond, when executed by—	
(a) Headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	
(b) Any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the Master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10;	Forty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Eighty paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee and fifty paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Three rupees.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Four Rupees and twenty-five paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Six Rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Seven Rupees and fifty paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Eight Rupees and fifty paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten Rupees.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve Rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen Rupees.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen Rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000;	Seven Rupees and fifty Paise.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Fifteen Rupees.

Description of Instrument (1)	Proper Stamp-duty (2)
See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or the Revenue Officer—	
(a) where the purchase money does not exceed Rs. 10;	Forty paise.
(b) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25.	Eighty paise.
(c) in any other case.	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount of the purchase money only.
. . . .	. . . .
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer whether it includes a penalty clause or not.	Four rupees.
. . . .	. . . .
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Thirty rupees.
23. CONVEYANCE as defined by section 2 (10) not being a transfer charged or exempted under No. 62—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	One Rupee and fifty paise.
where it exceeds Rs. 50 but does not exceed Rs. 100;	Three Rupees.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Six rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Eight rupees and fifty paise.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Twelve rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Fifteen rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Seventeen rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Twenty rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Twenty-three rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Thirty rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Thirty rupees. (?)
and for every Rs. 500 or part thereof in excess of Rs. 1,000;	Fifteen Rupees.
Exemption Assignment of copyright under the Copyright Act, 1957, S. 18.	

Description of Instrument (1)	Proper Stamp-duty (2)
CO-PARTNERSHIP-DEED — See Partnership (No. 46).	
24. COPY OR EXTRACT, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty, or if the duty, with which it was chargeable does not exceed one rupee;	One rupee and fifty paise.
(ii) in any other case	Three rupees.
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(c) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument, chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed one rupee and fifty Naye Paise;	The same duty as is payable on the original.
(b) in any other case	Three rupees.
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a BOTTOMRY BOND (No. 16) for such amount.
(b) in any other case.	Nineteen Rupees.
° ° ° °	
DECLARATION OF ANY TRUST — See TRUST (No. 64).	
° ° ° °	
DEPOSIT OF TITLE-DEEDS — See AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE (No. 6).	
DISSOLUTION OF PARTNERSHIP — See PARTNERSHIP (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Four rupees.
DOWER — Instrument of — See SETTLEMENT (No. 58).	
DUPLICATE — See COUNTERPART (No. 25).	
° ° ° °	
31. EXCHANGE OF PROPERTY — Instrument of—	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT—See COPY (No. 24).	
32. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount

Description of Instrument (1)	Proper Stamp-duty (2)
clause (a) of Article No. 40 (that is, with possession);	of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a BOTTOMRY BOND (No. 16) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a SETTLEMENT (No. 58) or WILL or TRANSFER (No. 62).	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT OR AGREEMENT FOR SERVICE—See AGREEMENT (No. 5).	
34. INDEMNITY BOND	The same duty as a SECURITY BOND (No. 57) for the same amount.
INSPECTORSHIP DEEDS — See COMPOSITION DEED (No. 22).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a BOTTOMRY BOND (No. 16) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year, but not more than five years;	The same duty as a BOTTOMRY BOND (No. 16) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years, but not exceeding ten years;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity.	The same duty as a CONVEYANCE (No. 23) for a consideration equal to one-sixth of the whole amount of rent which would be paid or delivered in respect of first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term,	The same duty as a CONVEYANCE (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease.

Description of Instrument (1)	Proper Stamp Duty (2)
(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved.	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee and fifty paise.
Exemption Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	
Explanation—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
LETTER OF GUARANTEE — See AGREEMENT (No. 5).	
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Thirty rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under section 26 of the Companies Act, 1956;	Sixty rupees.
(b) if not so accompanied	One hundred and fifty rupees.
Exemption Memorandum of any association not formed for profit and registered under section 25 of the Indian Companies Act, 1956.	
40. MORTGAGE-DEED, NOT BEING AN AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE (No. 6), BOND (No. 15), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56) OR SECURITY BOND (No. 57)—	
(a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a BOTTOMRY BOND (No. 16) for the amount secured by such deed.
Explanation—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortga-	

Description of Instrument (1)	Proper Stamp Duty (2)
ged or part thereof, is deemed to give possession within the meaning of this article.	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped — for every sum secured not exceeding Rs. 1,000;	One Rupee and fifty paise.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000;	One Rupee and fifty paise.
Exemptions	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Thirty paise.
and for every Rs. 200 or part thereof secured in excess of Rs. 200.	Thirty paise.
(b) when the loan is repayable more than 3 months but not more than eighteen months, from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Forty paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Forty paise.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	Three rupees.
See also PROTEST OF BILL OR NOTE (No. 50).	
43. NOTE OR MEMORANDUM, sent by Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods, exceeding in value twenty rupees;	Forty paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of rupees thirty, thirty-five paise for every Rs. 10,000 or part thereof of the value of the stock or security.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP — See also PROTEST BY THE MASTER OF A SHIP (No 51).	Two rupees.
45. PARTITION — Instrument of, as defined by section 2 (15).	The same duty as a BOTTOMRY BOND (No. 16) for the amount of the value of the separated share or shares of the property.

Description of Instrument (1)	Proper Stamp Duty (2)
	N. B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such a partition shall be reduced by the amount of duty paid in respect of first instrument but shall not be less than one rupee and fifty paise. (b) Where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue. (c) Where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee and fifty paise.
46. PARTNERSHIP—	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 500;	Nine rupees fifty paise.
(b) in any other case	Forty rupees.
B.—Dissolution of—	
PAWN OR PLEDGE — See AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE (No. 6).	Nineteen rupees.
	• • • •
48. POWER OF ATTORNEY — As defined by section 2 (21) not being a Proxy—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee and fifty paise.
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	One rupee and fifty paise.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in cl. (a);	Three rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Fifteen rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a CONVEYANCE (No. 23) for the amount of the consideration.

Description of Instrument (1)	Proper Stamp Duty (2)
(g) in any other case.	Three rupees for each person authorised. N. B.—The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908.
Explanation — For the purposes of this article more persons than one when belonging to the same firm shall be deemed to be one person.	
* * * *	* * * *
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note.	Four rupees.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	Four rupees.
See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	
* * * *	* * * *
* * * *	* * * *
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a CONVEYANCE (No. 23) for the amount of such consideration as set forth in the reconveyance.
(b) in any other case.	Thirty rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A), whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a BOTTOMRY BOND (No. 16) for such amount or value as set forth in the release.
(b) in any other case	Fifteen rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a BOTTOMRY BOND (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT—	
See SETTLEMENT (No. 58) TRUST (No. 64)	
57. SECURITY BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a BOTTOMRY BOND (No. 16) for the amount secured.
(b) in any other case.	Fifteen rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
Exemptions Bond or other instrument, when executed— (a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99 for the due performance of their duties under that Act; (b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem; (c) by persons taking advances under the Land Improvement Loans Act, 1883 or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (d) by officers of the Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT— (A) INSTRUMENT OF (including a deed of dower).	The same duty as a BOTTOMRY BOND (No. 16) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with a stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee and fifty paise.
Exemption Deed of dower executed on the occasion of a marriage between Muhammadans. (B) REVOCATION OF	The same duty as a BOTTOMRY BOND (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding thirty rupees.
See also TRUST (No. 64).	
59. SHARE WARRANTS to bearer issued under Companies Act, 1956.	One and a half times the duty payable on a CONVEYANCE (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemptions Share warrant, when issued by a company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment, as composition for that duty, to the Collector of Stamp Revenue, of— (a) one and a half per centum of the whole subscribed capital of the company; or (b) if any company which has paid the said duty or composition in full subsequently issues an addition to its subscribed capital — one and a half per centum of the additional capital so issued.	
• • • • • •	• • • • • •
61. SURRENDER OF LEASE— (a) when the duty with which the lease is chargeable does not exceed seven rupees and fifty naye paise;	The duty with which such lease is chargeable.

Description of Instrument (1)	Proper stamp-duty (2)
(b) in any other case.	Fifteen rupees.
Exemption	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
* * * * * *	* * * * * *
(c) of any interest secured by a bond or mortgage deed—	
(i) if the duty on such bond or mortgage deed does not exceed seven rupees fifty paise;	The duty with which such bond or mortgage deed is chargeable.
(ii) in any other case.	Fifteen rupees.
(d) of any property under the Administrator-General's Act, 1913, section 25;	Thirty rupees.
(e) of any trust property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	Fifteen rupees or such smaller amount as may be chargeable under clause (c) of the article.
Exemptions	
Transfers by endorsement—	
* * * * * *	
(b) of delivery order, warrant for goods, or other mercantile document of title to goods;	
* * * * * *	
(d) of securities of the Central Government.	
See also section 8.	
63. TRANSFER OF LEASE by way of assignment and not by way of underlease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption	
Transfer of any lease exempt from duty.	
64. TRUST.	
A—Declaration of — of, or concerning any property when made by any writing not being a Will.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding forty-five rupees.
B—Revocation of — of, or concerning any property when made by an instrument other than a Will.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding thirty rupees.
See also SETTLEMENT (No. 58)—	
Valuation—See APPRAISEMENT (No. 8).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Eighty paise.

(ii) Section 3 of the Orissa Additional Stamp Duty Act, 1970 (32 of 1970), levying additional stamp in respect of certain instruments runs as follows:—

"**3. Levy of surcharge.**—Notwithstanding anything contained in the Indian Stamp Act, 1899 (hereinafter referred as the principal Act), stamp duty leviable under the principal Act in respect of instruments specified in the first column of Schedule I shall, when such instrument purports to transfer any immovable property situate within rural areas and within urban areas, be increased by an additional stamp duty in accordance with rates specified in the second column and third column respectively of Schedule II on the accounts or value, as the case may be, specified in the second column of Schedule I.'" (1-2-1971).

Schedule I of the said Act mentions Arts. 23, 31, 33, 35, 40 (a), 58-A and 58-B of Schedule I-A.

Schedule II specifies the rates as follows:—

Value specified in Col. (2) of Schedule I	Rural Areas (Rate) Per cent.	Urban Areas (Rate) Per cent.
Not exceeding Rs. 2,000 ..	2	3
Above Rs. 2,000 but up to Rs. 5,000 ..	3	4½
Rs. 5,000 or above not exceeding Rs. 10,000 ..	4	6
Rs. 10,000 to 25,000 ..	5	7½
Exceeding Rs. 25,000 ..	6	9

PUNJAB

Note.—The Punjab of British India was partitioned on the 15th of August, 1947 by sub-section (1) of Section 4 of the Indian Independence Act, 1947. The two new Provinces thus formulated were known as West and East Punjab. This Province of East Punjab (later on came to be known under the Constitution of India as Part A State of Punjab) included the following territories, namely:—

(a) the territories of East Punjab;

(b) the territories of the three merged former Indian States;

(c) the territories known as the enclaves transferred from Himachal Pradesh and Pepsu.

On and from the 1st of November 1956 to above territories were added the territories which till then were included in Part B State of Patiala and East Punjab States Union (Pepsu) by Section 11 of the States Reorganisation Act, 1956.

The principal Act, namely, the Indian Stamp Act, 1899 (II of 1899), as amended from time to time in the States of Punjab and Pepsu, continued to apply in the respective territories of the State of Punjab till the 3rd of April, 1957, the date on which the Punjab (Extension No. I) Act, 1957 (Punj. V of 1957), came into force in the said State. The object of this Act was to provide for the extension of certain laws to the territories which, immediately before the 1st November, 1956, were comprised in the State of Pepsu. Among the Acts so extended is the principal Act, as amended from time to time in its application to the State of Punjab, along with all rules, etc. And on that very date the stamp law that was till then applicable in the territories of Pepsu was repealed.

Schedule I-A was added to the principal Act on 15-1-1923 by the Indian Stamp (Punjab Amendment) Act, 1922 (Punj. VIII of 1922). This was substituted by a new Schedule I-A by the Indian Stamp (Punjab Amendment) Act, 1958 (Punj. 13 of 1958). The present Schedule I-A is the one substituted by the Indian Stamp (Punjab Second Amendment) Act, 1960 (Punj. XXXIV of 1960), Section 2 (29-11-1960).

Punjab State was divided into two States and a Union territory by the Punjab Reorganisation Act, 1966 (31 of 1966). The States are: (1) Punjab and (2) Haryana and the Union territory is Chandigarh. Part of the pre-partition Punjab has been transferred to the Himachal Pradesh State also.

By reason of the provisions of Section 88 of the Punjab Reorganisation Act, 1966, Act as in former Punjab up to 1-11-1966 continues to be in force into the new States and Chandigarh. Himachal Pradesh has repealed the law as to Stamp duty in areas transferred to it by Act 31 of 1966 by Him. Pra. Act 16 of 1970.

Stamp Act, as amended by Punjab Acts VIII of 1922, XXVII of 1949, XIII of 1958, XXVI of 1959 and XXI of 1960, has been extended to the Union territory of Delhi by various orders passed under the Union Territories (Laws) Act, 1950 (30 of 1950). Punjab Act XXXIV of 1960 which has substituted Schedule I-A has not been extended to Delhi.

Haryana State has further amended the Schedule by Haryana Acts VII of 1967 and XVI of 1969.

Punjab State has substituted the Schedule by Act XXXIV of 1960 and further amended it by Acts XXIV of 1964 and VI of 1965.

SCHEDULE I-A

Stamp Duty on Certain Instruments under the Indian Stamp (Punjab Amendment) Act, 1922.

PUNJAB: HARYANA: CHANDIGARH: DELHI

Note.—The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I.

Description of Instrument (1)	Proper Stamp Duty (2)
1. *[**ACKNOWLEDGMENT** of a debt exceeding 20 rupees in amount, or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.]	Twenty-five naye paise (15 paise in Delhi).
[*] Substituted by Punj. Act VI of 1965, Section 2 (26-4-1965).	
2. ADMINISTRATION BOND, including a bond given under section 6 of the Government Savings Bank Act, 1873, or sections 291, 375 and 376 of the Indian Succession Act, 1925,—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case	Fifteen rupees.
3. ADOPTION-DEED, that is to say, any instrument (other than a Will), recording an adoption, or conferring or purporting to confer an authority to adopt.	Thirty-seven rupees fifty naye paise (Rs. 25 in Delhi).
ADVOCATE.—See Entry as an Advocate (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Three rupees (Rs. 2 in Delhi).
Exemptions	
Affidavit or declaration in writing when made—	
(a) as a condition of enrolment under the Army Act, 1950, or Air Force Act 1950;	
(b) for the immediate purpose of being filed or used in any court or before the officer of any court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Forty naye paise (Twenty-five paise in Delhi).
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of twenty-two rupees and fifty naye paise, twenty-five naye paise for every Rs. 10,000 or part thereof of the value of the security or share (Subject to

Schedule 1A — Article 5 Note 1

(1) If a party to an instrument obliges itself to pay money to the other party to the instrument then the instrument becomes a bond within section 25 and is chargeable under Article 15 of Sch 1-A and not under Article 5 (c) of Sch. 1-A. **AIR 1968 Delhi 1 (5) = (1967) 69 Pun LR (D) 270 (FB).**

Description of Instrument (1)	Proper Stamp Duty (2)
(c) if not otherwise provided for.	a maximum of fifteen rupees fifteen paise for every Rs. 10,000 in Delhi).
Exemptions	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43;	Two rupees twenty-five naye paise (Re. 1.50 in Delhi).
(b) made in the form of tenders to the Central Government for, or relating to, any loan.	
AGREEMENT TO LEASE.—See Lease (No. 35).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever other than a marketable security; or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing agreement—	
(i) when the amount of loan or debt does not exceed Rs. 200;	Sixty naye paise (40 paise in Delhi).
(ii) when it exceeds Rs. 200, but does not exceed Rs. 400;	One rupee twenty naye paise (0.80 paise in Delhi).
when it exceeds Rs. 400, but does not exceed Rs. 600;	One rupee sixty-five naye paise (Rs. 1-10 in Delhi).
when it exceeds Rs. 600, but does not exceed Rs. 800;	One rupee ninety-five naye paise (Rs. 1.30 in Delhi).
when it exceeds Rs. 800, but does not exceed Rs. 1,000;	Two rupees seventy naye paise (Rs. 1.80 in Delhi).
when it exceeds Rs. 1,000, but does not exceed Rs. 1,200;	Three rupees thirty naye paise (Rs. 2.20 in Delhi).
when it exceeds Rs. 1,200, but does not exceed Rs. 1,600;	Four rupees twenty naye paise (Rs. 2.80 in Delhi).
when it exceeds Rs. 1,600, but does not exceed Rs. 2,500;	Six rupees thirty naye paise (Rs. 4.20 in Delhi).
when it exceeds Rs. 2,500 but does not exceed Rs. 5,000;	Twelve rupees seventy-five naye paise (Rs. 8.50 in Delhi).
when it exceeds Rs. 5,000, but does not exceed Rs. 7,500;	Eighteen rupees seventy-five naye paise (Rs. 12.50 in Delhi).
when it exceeds Rs. 7,500, but does not exceed Rs. 10,000;	Twenty-four rupees forty-five naye paise (Rs. 16.30 in Delhi).
when it exceeds Rs. 10,000, but does not exceed Rs. 15,000;	Thirty-seven rupees ninety-five naye paise (Rs. 25.30 in Delhi).
when it exceeds Rs. 15,000, but does not exceed Rs. 20,000;	Forty-nine rupees ninety-five naye paise (Rs. 33.30 in Delhi).
when it exceeds Rs. 20,000, but does not exceed Rs. 25,000;	Sixty-one rupees ninety-five naye paise (Rs. 41.30 in Delhi).
when it exceeds Rs. 25,000, but does not exceed Rs. 30,000;	Seventy-six rupees five naye paise (Rs. 50.70 in Delhi).
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000;	Twenty-four rupees forty-five naye paise (Rs. 16.30 in Delhi).

Description of Instrument (1)	Proper Stamp Duty (2)
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.
Exemption	
Instrument of pawn or pledge of goods if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.	Thirty-seven rupees fifty naye paise (Rs. 25 in Delhi).
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 16) for such amount.
(b) in any other case ..	Fifteen rupees (Rs. 10 in Delhi).
Exemptions	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11).	As in Schedule I.
Exemption	
Instrument of apprenticeship executed by a Magistrate under the Apprentices Act*, 1850, or by which a person is apprenticed by, or at the charge of, any public charity.	
[*] Now see the Apprentices Act, 1961 (52 of 1961).	
10. ARTICLES OF ASSOCIATION OF A COMPANY—	
(a) when the authorised capital of the company does not exceed rupees one lakh;	Sixty rupees (Rs. 40 in Delhi).
(b) in other cases ..	One hundred and twenty rupees (Rs. 80 in Delhi).
Exemption	
Articles of any Association not formed for profit and registered under section 25 of the Companies Act, 1956.	
See also Memorandum of Association of a Company (No. 39).	
11. ARTICLES OF CLERKSHIP ..	As in Schedule I.
ASSIGNMENT—See Conveyance (No. 23), Transfer (No. 62), and Transfer of Lease (No. 63), as the case may be.	
ATTORNEY—See Entry as an Attorney (No. 30), and Power-of-attorney (No 48).	
AUTHORITY TO ADOPT—See Adoption Deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award re-	The same duty as a Bond (No. 15) for such amount.

Description of Instrument (1)	Proper Stamp Duty (2)
lates as set forth in such award, does not exceed Rs. 1,000;	
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000.	Fifteen rupees (Rs. 10 in Delhi).
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee fifteen naye paise subject to a maximum of one hundred and twelve rupees fifty naye paise (Seventy-five naye paise subject to a maximum of Rs. 75).
13. BILL OF EXCHANGE	As in Schedule I.
14. BILL OF LADING (including a through bill of lading).	As in Schedule I.
15. BOND [as defined by section 2 (5)], not being a debenture (No. 27), and not being otherwise provided for by this Act, or by the Court-fees Act, 1870—	
where the amount or value secured does not exceed Rs. 10;	Thirty naye paise (20 paise in Delhi).
where it exceeds Rs. 10 and does not exceed Rs. 50;	Sixty naye paise (40 paise in Delhi).
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee fifteen naye paise (75 paise in Delhi).
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees twenty-five naye paise (Rs. 1.50 in Delhi).
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees forty naye paise (Rs. 2.25 in Delhi).
where it exceeds Rs. 300 and does not exceed Rs. 400;	Four rupees fifty naye paise (Rs. 3 in Delhi).
where it exceeds Rs. 400 and does not exceed Rs. 500;	Five rupees sixty-five naye paise (Rs. 3.75 in Delhi)
where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees (Rs. 6 in Delhi).
where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten rupees fifty naye paise (Rs. 7 in Delhi).
where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve rupees (Rs. 8 in Delhi).
where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees fifty naye paise (Rs. 9 in Delhi).
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees (Rs. 10 in Delhi).
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Seven rupees fifty naye paise (Rs. 5 in Delhi).
See Administration Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondential Bond (No. 56), Security Bond (No. 57).	
Exemption	
Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or to any other object of public utility, shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on a security of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10;	Thirty naye paise (20 paise in Delhi).
where it exceeds Rs. 10 and does not exceed Rs. 50;	Sixty naye paise (40 paise in Delhi).
Where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee fifteen naye paise (75 paise in Delhi).

Schedule 1A — Article 15 Note 1

(1) **Held**, that the instruments fell within the scope of Section 25 (b) and were chargeable as bonds under Article 15. **AIR 1968 Delhi 1 (4) = (1967) 69 Pun LR (D) 270 (FB).**

Description of Instrument (1)	Proper Stamp Duty (2)
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees twenty-five naye paise (Rs. 1.50 in Delhi).
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees forty naye paise (Rs. 2.25 in Delhi).
where it exceeds Rs. 300 and does not exceed Rs. 400;	Four rupees fifty naye paise (Rs. 3 in Delhi).
where it exceeds Rs. 400 and does not exceed Rs. 500;	Five rupees sixty-five naye paise (Rs. 3.75 in Delhi).
where it exceeds Rs. 500 and does not exceed Rs. 600;	Six rupees seventy-five naye paise (Rs. 4.50 in Delhi).
where it exceeds Rs. 600 and does not exceed Rs. 700;	Seven rupees ninety naye paise (Rs. 5.75 in Delhi).
where it exceeds Rs. 700 and does not exceed Rs. 800;	Nine rupees (Rs. 6 in Delhi).
where it exceeds Rs. 800 and does not exceed Rs. 900;	Ten rupees fifteen naye paise (Rs. 6.75 in Delhi).
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Eleven rupees twenty-five naye paise (Rs. 7.50 in Delhi).
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees sixty-five naye paise (Rs. 3.75 in Delhi)
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled) if attested and not otherwise provided for.	Fifteen rupees (Rs. 10 in Delhi).
See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer.	The same duty as a Conveyance (No. 23) or a consideration equal to the amount of the purchase-money only.
19. *[**CERTIFICATE** or other document evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.]	Forty naye paise (25 paise in Delhi).
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Three rupees (Rs. 2 in Delhi).
* * * * * *	* * * * * *
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Thirty rupees (Rs. 20 in Delhi).

[*] Substituted for "certificate or other document" by Punj. Act 6 of 1965, Section 2 (2) (26-4-1965).

Description of Instrument (1)	Proper Stamp Duty (2)	
	Where conveyance amounts to sale (a)	Other conveyances (b)
23. CONVEYANCE [as defined by Section 2 (10)], not being a Transfer charged or exempted under No. 62—		
where the value of amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Three rupees (Punj. & Chandi.)	One rupee and fifty paise (P. C.)
	Five rupees (Haryana)	Rs. 2.50 (H.)
where it exceeds Rs. 50, but does not exceed Rs. 100;	Six rupees (P. C.)	Three rupees (P. C.)
	Two rupees (H.)	Five rupees (H.)
where it exceeds Rs. 100, but does not exceed Rs. 200;	Rs. 12 (P. C.)	Rs 6 (P. C.)
	Rs. 20 (H)	Rs 10 (H.)
where it exceeds Rs. 200, but does not exceeed Rs. 300;	Rs. 18 (P.C.)	Rs. 9 (P. C)
	Rs. 30 (H.)	Rs. 15 (H.)
where it exceeds Rs. 300, but does not exceed Rs. 400;	Rs. 24 (P. C.)	Rs. 12 (P. C.)
	Rs. 40 (H.)	Rs. 20 (H.)
where it exceeds Rs. 460, but does not exceed Rs. 500;	Rs. 30 (P. C.)	Rs. 15 (P. C.)
	Rs. 50 (H.)	Rs. 25 (H).
where it exceeds Rs. 500, but daes not exceed Rs. 600;	Rs. 36 (P. C.)	Rs. 18 (P. C.)
	Rs. 60 (.H)	Rs. 30 (H.)
where it exceeds Rs. 600, but does not exceed Rs. 700;	Rs. 42 (P. C.)	Rs. 21 (P. C.)
	Rs. 70 (H.)	Rs. 35 (H.)
where it exeeeds Rs. 700. but does not exeeed Rs. 800;	Rs. 48 (P. C.)	Rs. 24 (P. C.)
	Rs. 80 (H.)	Rs. 40 (H.)
where it excedds Rs. 800, but does not exceed Rs. 900;	Rs. 54 (P. C.)	Rs. 27 (P. C.)
	Rs. 90 (H.)	Rs. 45 (H.)
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Rs. 60 (P. C.)	Rs. 30 (P. C.)
	Rs. 100 (H.)	Rs. 50 (H.)
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Rs. 30 (P. C.)	Rs. 5 (P. C.)
	Rs. 50 (H.)	Rs. 25 (H.)
Exemption-		
Assignment of copyright under the Copyright Act, 1957, S. 18.		

The article printed here is as amended by Punjab Act 24 of 1964 and Haryana Act 16 of 1969. Th rates in Haryana are in force from 17-7-1967 when Haryana Ordinance 3 of 1967 was promulgated P stands for Punjab; C for Chandigarh ; H for Haryana. Rates in Delhi are as follows respectively.

	(a)	(b)
	Rs. 1-50	Rs. 1-50
	Rs 3	Rs. 2
	Rs. 6	Rs. 4
	Rs. 9	Rs. 6
	Rs. 12	Rs. 8
	Rs. 15	Rs. 10
	Rs. 18	Rs. 12
	Rs. 21	Rs. 14
	Rs. 24	Rs. 16
	Rs. 27	Rs. 18
	Rs. 30	Rs. 20
	Rs. 15	Rs. 10
CO-PARTNERSHIP-DEED, *See* Partnership (No. 46).		
24. COPY OR EXTRACT certified to be true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—		
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed two rupees;	One rupee, fifty Naye paise. (75 paise) (Delhi).	
(ii) in any other case not falling within the provisions of section 6-A.	Three rupees. (Rs. 2).	
Exemptions.		
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.		

Description of Instrument (1)	Proper Stamp Duty (2)
(b) Copy of, or extract from. any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed two rupees;	One rupee, fifteen Naye Paise. (75 paise in Delhi)
(b) in any other case not falling within the provisions of Section 6-A.	Three rupees. (Rs. 2 in Delhi)
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case . .	Fifteen rupes (Rs. 10 in Delhi).
27. DEBENTURE See also Bond (No. 15) and sections 8 and 55	As in Schedule I.
DECLARATION OF ANY TRUST — See Trust (No. 64).	
28. DELIVERY ORDER IN RESPECT OF GOODS.	Twenty-five naye paise (15 paise in Delhi).
DEPOSIT OF TITLE DEEDS— See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	
DISSOLUTION OF PARTNERSHIP — See Partnership (No. 46).	
29. DIVORCE — Instrument of — that is to say, any instrument by which any person effects the dissolution of his marriage.	Thirty rupees (Rs. 20 in Delhi).
DOWER—Instrument of — See Settlement (No. 58).	
DUPLICATE.—See Counterpart (No. 25).	
30. Entry as an **ADVOCATE, VAKIL, OR ATTORNEY ON THE ROLL OF THE HIGH COURT** (Under the Indian Bar Councils Act, 1926 or in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884)—	
(a) in the case of an Advocate or Vakil;	Seven hundred and fifty rupees (Rs. 500 in Delhi).
(b) in the case of an Attorney	Seven hundred and fifty rupees (Rs. 500 in Delhi).
Exemption	
Entry of a Advocate, Vakil or Attorney on the roll of the High Court, when he has previously been enrolled in any other High Court.	
31. EXCHANGE OF PROPERTY — Instrument of—	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT—See Copy (No. 24).	
32. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the descriptions referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as a mortgage deed with possession [No. 40 (a)] for the amount equal to the amount of the further charge secured by such instrument.

Description of Instrument (1)	Proper Stamp Duty (2)
(b) when such mortgage is one of the descriptions referred to in Cl. (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a mortgage deed with possession [No. 40 (a)] for the amount equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
*33. **GIFT**—Instrument of, not being a Settlement (No. 58), or Will or Transfer (No. 62).	
Where the value or amount of consideration as set forth in the instrument does not exceed Rs. 50;	Two rupees fifty paise.
where it exceeds Rs. 50 but does not exceed Rs. 100;	Five rupees.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Ten rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Fifteen rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Twenty rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Twenty-five rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Thirty rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Thirty-five rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Forty rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Forty-five rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Fifty rupees.
and for Rs. 500 or part thereof in excess of Rs. 1,000.	Twenty-five rupees.

[*] Substituted by Punj. Act 27 of 1973, Section 2 (27-4-1973).

Note:— In application to Haryana, Chandigarh and Delhi, Property Stamp Duty under this Article would perhaps be "the same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to the value of the property as set forth in such instrument."—

HIRING AGREEMENT or agreement for service—See Agreement (No. 5).	
34. **INDEMNITY BOND.**	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP DEED—See Composition Deed (No. 22).	
35. **LEASE,** including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year, but not more than five years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration

Description of Instrument (1)	Proper Stamp Duty (2)
five years and not exceeding ten years;	equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding 10 years but not exceeding 20 years;	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding 20 years, but not exceeding 30 years;	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding 30 years, but not exceeding 100 years;	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding 100 years or in perpetuity;	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal in the case of a lease granted solely for agricultural purposes to 1/10th and in any other case to 1/6th of the whole amount of rents which would be paid or delivered in respect of the first fifty years of lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where lease granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered. *[Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement on such lease shall not exceed one rupee and fifty naye paise.]

[*] Inserted by Punj. Act VI of 1965, S. 2 (3) [26-4-1965].

Exemption

Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank.

Explanation.— When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law. recoverable from the lessor, the amount so

Description of Instrument (1)	Proper Stamp Duty (2)
agreed to be paid by the lessee shall be deemed to be part of the rent. Note.—As to Delhi proper stamp duty under (a) (i) and (a) (ii) would be as for Conveyance (No. 15).	
36. LETTER OF ALLOTMENT OF SHARES.	Thirty Naye Paise. (20 paise in Delhi).
37. LETTER OF CREDIT.	As in Schedule I.
LETTER OF GUARANTEE—See Agreement (No. 5).	
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Thirty rupees. (Rs. 20 in Delhi).
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under sections 26, 27 and 28 of the Companies Act, 1956;	Sixty rupees. (Rs. 40 in Delhi).
(b) if not so accompanied	One hundred and fifty rupees. (Rs. 100 in Delhi).
Exemption Memorandum of any association not formed for profit and registered under Section 25 of the Companies Act, 1956.	
40. MORTGAGE-DEED, not being an agreement relating to Deposit of Title deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
°(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given—	
where the amount secured by such instrument does not exceed Rs. 50;	Rs. 2.50 (75 paise in Delhi: Rs. 2.25 in H.)
where it exceeds Rs. 50, but does not exceed Rs. 100;	Rs. 5.00. (Rs. 1.50 in Delhi: Rs. 5 in H.)
where it exceeds Rs. 100, but does not exceed Rs. 200;	Rs. 10.00. (Rs. 3 in Delhi: Rs. 10 in H.)
where it exceeds Rs. 200, but does not exceed Rs. 300;	Rs. 15.00. (Rs. 4.50 in Delhi: Rs. 15 in H.)
where it exceeds Rs. 300, but does not exceed Rs. 400;	Rs. 20.00. (Rs. 6 in Delhi: Rs. 20 in H.)
where it exceeds Rs. 400, but does not exceed Rs. 500;	Rs. 25.00. (Rs. 9 in Delhi: Rs. 25 in H.)
where it exceeds Rs. 500, but does not exceed Rs. 600;	Rs. 30.00. (Rs. 10.50 in Delhi: Rs. 30 in H.)
where it exceeds Rs. 600, but does not exceed Rs. 700;	Rs. 35.00. (Rs. 12 in Delhi: Rs. 35 in H.)
where it exceeds Rs. 700, but does not exceed Rs. 800;	Rs. 40.00. (Rs. 12 in Delhi: Rs. 40 in H.)
where it exceeds Rs. 800, but does not exceed 900;	Rs. 45.00. (Rs. 13.50 in Delhi: Rs. 45 in H.)
where it exceeds Rs. 900, but does not exceed Rs. 1,000;	Rs. 50.00. (Rs. 15 in Delhi: Rs. 50 in H.)
and for every Rs. 500 or part thereof in excess of Rs. 1,000;	Rs. 25.00. (Rs. 7.50 in Delhi: Rs. 25 in H.)
	N. B.— The rates in Haryana are in force w. e. f. 17-7-67 when the Haryana Ordinance III of 1967 was promulgated.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.

Schedule 1A — Article 40 Note 1

(1) Lessor selling entire property part of which was in possession of lessee — Purchaser mortgaging whole property with lessee — Transaction is dutiable under Article 40 (b) and not 40 (a). AIR 1972 Delhi 146 (148) = ILR (1972) 1 Delhi 755.

Description of Instrument (1)	Proper Stamp Duty (2)
Explanation.— A mortgagor who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article. (c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purposes where the principal or primary security is duly stamped— for every sum secured not exceeding Rs. 1,000; and for every Rs. 1,000 or part thereof of secured in excess of Rs. 1,000.	One rupee, fifteen Naye Paise. (75 paise in Delhi). One rupee, fifteen Naye Paise. (75 paise in Delhi).
Exemptions (1) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances. (2) Letter of hypothecation accompanying a bill of exchange.	
[*] Substituted for former cl. (a) by Punj. Act 27 of 1973, S. 2 (2) (27-4-73).	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage— (a) when the loan is repayable not more than three months, from the date of the instrument— for every sum secured not exceeding Rs. 200; and for every Rs. 200 or part thereof secured in excess of Rs. 200. (b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument— for every sum secured not exceeding Rs. 100; and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Fifteen Naye Paise. (10 paise in Delhi.) Fifteen Naye Paise. (10 paise in Delhi.) Thirty Naye Paise. (20 paise in Delhi.) Thirty Naye Paise. (20 paise in Delhi.)
42. NOTARIAL ACT.,— that is to say, any instrument, endorsement, note, attestation certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public. See also Protest of Bill or Note (No. 50).	Four rupees, fifty Naye Paise. (Rs. 3 in Delhi).
43. NOTE OR MEMORANDUM, sent by a Broker or Agent to his Principal intimating the purchase or sale on account of such Principal— (a) of any goods exceeding in value twenty rupees; (b) of any stocks or marketable security exceeding in value twenty rupees.	Forty Naye Paise. (25 paise in Delhi). Subject to a maximum of thirty rupees, thirty Naye Paise, for every Rs. 10,000 or part thereof of the value of the stock or security. (Rs. 20.20 maximum in Delhi).
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Seventy-five Naye Paise. (50 paise in Delhi).

Description of Instrument (1)	Proper Stamp Duty (2)
45. PARTITION — Instrument of [as defined by section 2 (15)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. N. B.— The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee, fifteen Naye Paise; (75 paise in Delhi); (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than ten times the annual revenue; (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one rupee, fifteen Naye Paise. (75 paise in Delhi).
46. PARTNERSHIP— A.—Instrument of— (a) where the capital of the partnership does not exceed Rs. 500; (b) in any other case.	Three rupees, seventy-five Naye Paise. (Rs. 2.50 paise in Delhi). Twenty-two rupees, fifty Naye Paise. (Rs. 15 in Delhi). Fifteen rupees. (Rs. 10 in Delhi).
B.—Dissolution of— PAWN OR PLEDGE—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6).	
47. POLICY OF INSURANCE	As in Schedule I.
48. POWER-OF-ATTORNEY [as defined by section 2 (21)], not being a Proxy (No. 52)— (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee, fifty Naye Paise. (Rs. 1 in Delhi).
(b) when required in suits or proceedings under Presidency Small Cause Courts Act, 1882;	One rupee, fifty Naye Paise. (Rs. 1 in Delhi).

Schedule 1A — Article 45 Note 1

(1) In the case of partition of a Hindu undivided family property it is open to deduct the amount of maintenance education etc. of unmarried daughters that is to be incurred from the gross value of the property while calculating the duty payable under Article 45 Schedule 1A. **1972 Tax LR 2442 (2447) = ILR (1972) 1 Delhi 137 (SB).**

Description of Instrument (1)	Proper Stamp Duty (2)
(c) when authorising one person or more to act in a single transaction other than the case mentioned in cl. (a);	Three rupees. (Rs. 2 in Delhi).
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Fifteen rupees. (Rs. 10 in Delhi).
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty rupees. (Rs. 20 in Delhi).
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) as levied by this Act for the amount of consideration.
(g) in any other case.	Three rupees for each person authorised. (Rs. 2 per person in Delhi).
Explanation.— For the purpose of this article more persons than one when belonging to the same firm shall be deemed to be one person.	N. B.— The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1908.
49. PROMISSORY NOTE	As in Schedule I.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Three rupees. (Rs. 2 in Delhi).
51. PROTEST BY THE MASTER OF A SHIP.	As in Schedule I.
52. PROXY	As in Schedule I.
53. RECEIPT	As in Schedule I.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) as levied by this Act, for the amount of such consideration as set forth in the reconveyance.
(b) in any other case—	
(i) if the reconveyance relate to immovable property situate within a Municipality, Cantonment Board, or Notified Area;	Forty-five rupees. (Rs. 30 in Delhi).
(ii) in other cases	Thirty rupees. (Rs. 20 in Delhi).
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(b) in any other case	Fifteen rupees. (Rs. 10 in Delhi).
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent, on the arrival of the cargo at the port of destination.	The same duty as a Bottomry Bond (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT— See Settlement (No. 58); TRUST (No. 64).	
57. SECURITY-BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office, or to account for money or other property re-	

Description of Instrument (1)	Proper Stamp Duty (2)
ceived by virtue thereof, or executed by a surety to secure the due performance of a contract *[or due discharge of a liability]— (a) when the amount secured does not exceed Rs. 1,000; (b) in any other case	The same duty as a Bond (No. 15) for the amount secured. Fifteen rupees. (Rs. 10 in Delhi).
Exemptions Bond or other instrument, when executed— (a) by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem; (b) by person taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (c) by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.	
[*] Added by Punj. Act 6 of 1965, S. 2 (26-4-1965).	
58. SETTLEMENT— A.—Instrument of — (including a deed of dower).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement.
Exemption Deed of dower executed on the occasion of a marriage between Muhammadans.	
B.—Revocation of.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation, but not exceeding thirty rupees. (Rs. 20 in Delhi).
See also Trust (No. 64).	
59. SHARE WARRANTS to bearer issued under the Companies Act, 1956.	One-and-a-half times the duty payable on a mortgage deed with possession [No. 40 (a)] for the amount equal to the nominal amount of the shares specified in the warrant.
Exemptions Share warrant when issued by a company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment, as composition for the duty, to the Collector of stamp-revenue of— (a) one-and-a-half per centum of the whole subscribed capital of the company; or (b) if any company which has paid the said duty or composition in full subsequently issues an addition to its subscribed capital, one-and-a-ralf per centum of the additional capital so issued.	

Schedule 1A — Article 58 Note 1

(1) A deed creating a charitable trust is a settlement chargeable under Article 58 of Sch. 1-A and not a declaration of trust chargeable under Article 64 of that schedule. AIR 1972 Delhi 128 (130) = ILR (1972) 2 Delhi 33.

Description of Instrument	Proper Stamp Duty
60. SHIPPING ORDER.	Fifteen Naye Paise.
61. SURRENDER OF LEASE—	
(a) When the duty with which the lease is chargeable does not exceed ten rupees;	The duty with which such lease is chargeable.
(b) in any other case.	Fifteen rupees. (Rs. 10 in Delhi).
Exemption	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(a) of shares in an incorporated company or other body corporate;	As in Schedule I.
(b) of debentures, being marketable securities whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a debenture (No. 27) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage deed or policy of insurance;	One-half of the duty with which such bond, mortgage-deed or policy of insurance is chargeable subject to a maximum of seventy-five rupees. (Rs. 50 in Delhi).
(d) of any property under the Administrator-General's Act, 1913, sec. 25;	Twenty-two rupees, fifty Naye Paise. (Rs. 15 in Delhi).
(e) of any trust-property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	Eleven rupees twenty-five Naye Paise. (Rs. 7.50 in Delhi) or such smaller amount as may be chargeable under clauses (a) to (c) of this article.
Exemptions	
Transfer by endorsement—	
(a) of a bill of exchange, cheque or promissory note;	
(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;	
(c) of a policy of insurance;	
(d) of securities of the Central Government.	
See also section 8.	
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount of the consideration for the transfer.
Exemption	
Transfer of any lease exempt from duty.	
64. TRUST—	
A.—Declaration of—of, or concerning, any property when, made by any writing not being a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding Forty-five rupees. (Rs. 30 in Delhi).
B.—Revocation of—of, or concerning, any property when, made by any instrument other than a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding thirty rupees. (Rs. 20 in Delhi).
See also Settlement (No. 58).	
VALUATION.—See Appraisement (No. 8).	
VAKIL.—See Entry as Vakil (No. 30).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instru-	One rupee, Fifteen Naye Paise. (75 paise in Delhi).

Schedule I-A — Article 63, Noote 1

(1) Transfer of leasehold rights and proprietary rights of commercial flat leased by the President — Is exempt from stamp duty under Exemption to Art. 63. (1973) 75 Pun LR (D) 165.

Schedule 1A — Article 64 Note 1

(1) A deed creating a charitable trust is a settlement chargeable under Article 58 of Schedule 1-A and not a declaration of trust chargeable under Article 64 of that schedule. AIR 1972 Delhi 128 (130).

Description of Instrument (1)	Proper Stamp Duty (2)
ment being signed or certified by or on behalf of the person in whose custody such goods may be.	

UTTAR PRADESH

NOTE—Except for the addition of territories either by the merger of the former Indian States of Benaras, Rampur and Tehri-Garhwal or by inclusion of enclaves transferred from Vindhya Pradesh and Rajasthan, the territories of the State of Uttar Pradesh remain the same as they were comprised in the Province known formerly as the United Provinces. There is no change made in the said territories by the States Reorganisation Act, 1956.

The principal Act, namely, the Indian Stamp Act, 1899 (II of 1899) applies to the whole State of Uttar Pradesh, as amended from time to time by the State Legislature. Sch. IA, fixing the rates of stamp-duty in their application to the instruments executed in the State of Uttar Pradesh, was added after Sch. I of the principal Act by S. 12 of the U. P. Stamp (Amendment) Act, 1936 (U. P. III of 1936) [1-5-1936]. The stamp-duties so leviable were subject to an increase by way of a surcharge fixed in the schedule annexed to the Indian Stamp (U. P. Amendment) Act, 1943 (U. P. IX of 1943). The stamp-duty so regulated along with its incidence of being increased by a surcharge remained in force till the 1st April, 1948, the date on which the U. P. Stamp (Amendment) Act, 1948 (U. P. XVII of 1948) came into force. By this Act a new schedule was substituted in place of old Sch. IA and the Act of 1943, which had fixed the rates of surcharge, was repealed.

A change in Schedule IA is introduced in the year 1952. By the U. P. Stamp (Amendment) Act, 1952 (U. P. XXVIII of 1952) all the existing items in Sch. IA, except items 27 and 62 (a), are omitted (see Note on Sch. IA of U. P.); and by Section 12 of the Act a new schedule, namely, Sch. IB, is inserted after Sch. IA. This new Sch. IB is subsequently amended by U. P. Act XXI of 1958 and XLIII of 1958.

Schedule IB, as so amended, in its application to the State of Uttar Pradesh, is given hereafter.

U. P. Avas Evam Vikas Parishad Adhiniyam, 1965 (U. P. Act 1 of 1966), S. 62 levies additional stamp duty of 2% (liable to be increased to 5 per cent.) on transfers of immovable property in areas to which the Act is extended and enforced. That Act has been so far enforced in the Cities of Kanpur, Allahabad, Varanasi, Agra, Lucknow etc.

SCHEDULE IA

NOTE.—In the year 1948 when Sch. IA was substituted by S. 7 of the U. P. Stamp (Amendment) Act, 1948 (U. P. XVII of 1948), the State Legislature of the then United Provinces was functioning under the powers vested in it by the Government of India Act, 1935. It could, by virtue of Item 51 in List 2 of Sch. VII to the Government of India Act, 1935, fix the rates of stamp duty on Debentures and Transfer of Shares (Arts. 27 and 62 (a) in the schedule to the Stamp Act, 1899). Accordingly, Arts. 27 and 62 (a) in Sch. IA of the State of Uttar Pradesh read as follows:

27. **DEBENTURE** (whether a mortgage debenture or not), being a marketable security, transferable—

(a) by endorsement or by a separate instrument of transfer;—The same duty as a Bond (No. 15) for the same amount.

(b) by delivery—

where the face amount of the debenture does not exceed Rs. 100;—One rupee, nine annas.

where it exceeds Rs. 100. but does not exceed Rs. 200—Three rupees, two annas.

where it exceeds Rs. 200—The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.

Explanation.—The term "Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.

Exemption

A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of the debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture holders; provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

See also Bond (No. 15) and Ss. 8 and 55.

62. TRANSFER (whether with or without consideration)—

(a) of share in an incorporated company or other body corporate;

When the value of the share does not exceed Rs. 100.—Fifteen annas.

Where it exeeeds Rs.	100	but does not exceed Rs.	200	One rupee, fourteen annas.
Ditto	200	ditto	300	Two rupees, thirteen annas.
Ditto	300	ditto	400	Three rupees, twelve annas.
Ditto	400	ditto	500	Four rupees, eleven annas.
Ditto	500	ditto	600	Five rupees, ten annas.
Ditto	600	ditto	700	Six rupees, nine annas.
Where the value of the share—				
exceeds Rs.	700	but does not exceed Rs.	800	Seven rupees, eight annas.
Ditto	800	ditto	900	Eight rupees, seven annas.
Ditto	900	ditto	1,000	Nine rupees, six annas.
and for every Rs. 500 or part thereof in excess of Rs.			1,000	Four rupees, eleven annas.

The Government of India Act, 1935 was repealed by the Constitution of India, which was brought into force on and from the 26th of January, 1950. Under Entry 91 in List 1 of Sch. VII to the Constitution of India the power to regulate stamp duty in respect of Debentures and Transfer of Shares now vests in Parliament and not in the State Legislature (see Entry 63 in List 2 of Sch. VII to the Constitution of India).

In the year 1952 the State Legislature of Uttar Pradesh enacted the Uttar Pradesh Stamp (Amendment) Act, 1952. It extended to the whole of the State of Uttar Pradesh and was brought into force on the 1st of November, 1952. By this Act a new schedule, namely, Schedule IB was added after the existing Schedule IA and all the items contained in Schedule IA were omitted except items 27 and 62 (a) which dealt with rates of stamp duty in respect of Debentures and Transfer of Shares. (see sections 10 and 12 of the said U. P. Act). Section 11 of the U. P. Stamp (Amendment) Act, 1952 provides that "Nothing in this Act shall apply to or be deemed to affect the proper fee chargeable in respect of any instrument mentioned in items 27 and 62 (a) of Schedule IA of the principal Act."

In the year 1955 Parliament enacted the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955) which came into force with effect from the 1st April, 1956. By this Act Parliament has, inter alia, regulated rates of stamp duty chargeable in respect of Debentures and Transfer of Shares in an incorporated company or other body corporate. Section 8 of this amending Act which deals with repeal and saving runs as follows:

"**8. Repeals and savings.**— If, immediately before the commencement of this Act, there is in force in any State any law fixing rates of stamp-duty in respect of the documents specified in Entry 91 of List I in the Seventh Schedule to the Constitution such law, to the extent to which it is inconsistent with the principal Act as amended by this Act, shall, on such commencement stand repealed.

(2) For the removal of doubts it is hereby declared that section 6 of the General Clauses Act, 1897, shall apply upon such repeal as if such law had been an enactment."

Subject to this saving clause, the rates of stamp duty fixed by the U. P. Act in items 27 and 62 (a) of its Sch. IA should be deemed to have been repealed on and from the 1st of April, 1956.

SCHEDULE IB

Stamp Duty on Instruments under the Indian Stamp Act, 1899 as amended from time to time in its application to Uttar Pradesh.

(See Section 3).

(Note.—The articles in Schedule IB are numbered so as to correspond with similar articles in Schedule I.)

Description of Instrument 1	Proper Stamp Duty 2
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	**Twenty-five Naye Paise.**
*[2. **ADMINISTRATION BOND**, including a bond given under Sections 291, 375 and 376 of the Indian Succession Act, 1925, or Section 6 of the Government Savings Banks Act, 1873.]	†[Subject to a maximum of one hundred and fifty rupees, the same duty as on Bond (No. 15).]

[*] Substituted by U. P. Act XLIII of 1958, S. 7 (i) (w. e. f. 1-4-1959).

[†] Substituted by U. P. Act XXV of 1962, S. 8 (1-1-1963).

3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording an adoption or concerning or purporting to confer an authority to adopt.	*Thirty-three rupees and seventy-five naye paise.

[*] Substituted for 'Thirty rupees' by U. P. Act 25 of 1962, S. 8 (1-1-1963).

ADVOCATE. See Entry as an Advocate (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing—	*Four rupees and fifty naye paise.
(a) for the immediate purpose of being filed or used in any Court or before the officer of any Court;	One rupee.
(b) in any other case.	Four rupees.
Exemption Affidavit or declaration in writing— (a) as a condition of enrolment under the Army Act, 1950, the Air Force Act, 1950 or the Navy Act, 1957, or (b) for the sole purpose of enabling any person to receive any pension or charitable allowance.	

[*] Substituted by U. P. Act XI of 1969, S. 3 (i) (1-10-1969).

5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT— (a) if relating to the sale of a bill of exchange;	Sixty Naye Paise.

Schedule 1B — Article 1, Note 1

(1) Acknowledgment of debt also containing a promise to pay debt with interest — Proviso to article applies to these acknowledgments and therefore they do not require stamp duty mentioned therein. 1968 All LJ 171 (171).

Schedule 1B — Article 4, Note 1

(1) Provision governs all the affidavits irrespective of whether the facts therein have been sworn or affirmed — Such affidavits are chargeable. AIR 1971 All 287 (288) = 1970 All WR (HC) 348.

Schedule 1B — Article 5. Note 1

(1) The instrument was an agreement to let within the meaning of Article 35. As an agreement to lease it would be covered by the latter clause of Article 5 referring to Article 35 and not to the earlier part of

Description of Instrument 1	Proper Stamp Duty 2
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	†Subject to a maximum of forty-five rupees, thirty Naye Paise for every Rs. 10,000 or part thereof of the value of the security or share.*
(c) if not otherwise provided for.	Two rupees, twenty-five Naye Paise.
Exemptions	
Agreement or memorandum of agreement— (a) * * * * * (b) Made in the form of tenders to the Central Government for, or relating to, any loan.	

[*] Substituted by U. P. Act XXV of 1962, S. 8 (1-1-1963).
[†] Omitted by U. P. Act XIV of 1963, S. 3 (25-5-1963).

AGREEMENT TO LEASE — See Lease (No. 35).

*[6. **AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN or PLEDGE**, that is to say, any instrument evidencing an agreement relating to—

(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security); or

(2) the pawn or pledge of movable property, where such deposit, pawn or pledge, has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;

						Rs.	nP.
when the amount of the loan or debt does not exceed.....	Rs.	200				0	75
when it exceeds	Rs.	200 but	does not exceed	Rs.	400	1	25
when it exceeds	Rs.	400 but	does not exceed	Rs.	600	1	75
when it exceeds	Rs.	600 but	does not exceed	Rs.	800	2	25
when it exceeds	Rs.	800 but	does not exceed	Rs.	1,000	3	00
when it exceeds	Rs.	1,000 but	does not exceed	Rs.	1,200	3	50
when it exceeds	Rs.	1,200 but	does not exceed	Rs.	1,600	4	75
when it exceeds	Rs.	1,600 but	does not exceed	Rs.	2,500	7	00
when it exceeds	Rs.	2,500 but	does not exceed	Rs.	5,000	14	00
when it exceeds	Rs.	5,000 but	does not exceed	Rs.	7,500	21	00
when it exceeds	Rs.	7,500 but	does not exceed	Rs.	10,000	28	00
when it exceeds	Rs.	10,000 but	does not exceed	Rs.	15,000	42	00
when it exceeds	Rs.	15,000 but	does not exceed	Rs.	20,000	56	00
when it exceeds	Rs.	20,000 but	does not exceed	Rs.	25,000	70	00
when it exceeds	Rs.	25,000 but	does not exceed	Rs.	30,000	84	00
and for every additional Rs. 10,000 or part thereof in excess Rs. 30,000						28	00

Schedule 1B — Art. 5, Note 1 (contd.)

Article 5 (c) dealing with agreements other than agreements to lease. **AIR 1972 All 519 (531) = 1972 All LJ 632 (SB).**

(2) Obligation to pay money contained in penalty clause which would come into operation on the breach of the principal covenant — Document held merely an agreement chargeable under Article 5 and not a bond chargeable under Article 15. AIR 1972 All 466 (469) = 1972 All LJ 618.

(3) Where there is no deed of conveyance of the transfer of shares of a company but there is merely an agreement to sell them the particulars to be filed before the Registrar are liable to duty under Article 5 (c) of Sch. 1-B of the Stamp Act. **AIR 1959 All 595 (597) = 1959 All LJ 394 (SB).**

(4) Agreement relating to pawn or pledge and made by way of security for the payment of money advanced or to be advanced in future by the bank by way of loan to the borrower is not one relating to sale of a bill of exchange or sale of a Government security or share in an incorporated company within the meaning of Article 5 but falls under Article 6 (2) for the purposes of stamp duty. (1968) 38 Com Cas 620 (624, 627) = ILR (1968) 1 All 394.

Schedule 1B — Article 6, Note 1

(1) **Held** deed evidenced agreement pledging goods and also agreement purporting to

Description of Instrument 1	Proper Stamp Duty 2
(b) if such loan or debt is repayable not more than three months from the date of such instrument. Exemption Instrument of pawn or pledge of agricultural produce if unattested.]	Half the duty payable on a loan or debt under clause (a) for the amount secured.

[*] Substituted by U. P. Act 25 of 1962, S. 8 (1-1-1963).

*[7. **APPOINTMENT IN EXECUTION OF A POWER,** whether of trustees or of property, movable or immovable, where made by any writing not being a Will— (a) where the value of the property does not exceed Rs. 1,000; (b) in any other case.	Twenty-eight rupees. Fifty-six rupees.]

[*] Substituted by U. P. Act 25 of 1962, S. 8 (1-1-1963).

8. APPRAISEMENT OR VALUATION, made otherwise than under an order of the Court in the course of a suit— (a) where the amount does not exceed Rs. 1,000; (b) in any other case. Exemptions (a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law. (b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	The same duty as a Bond (No. 15) for such amount. Twenty-two rupees and fifty naye paise.*

[*] Substituted for '15 rupees' by U. P. Act 25 of 1962, S. 8 (1-1-1963).

9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk, or servant, placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11). Exemption Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.	Twelve rupees.
10. ARTICLES OF ASSOCIATION OF A COMPANY. Exemption Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act,† 1913. See also Memorandum of Association of a Company (No. 39).	*[One hundred and fifty rupees.]

[*] Substituted for "One hundred twenty-five rupees" by U. P. Act 25 of 1962, S. 8 (1-1-1963).

[†] See now the Companies Act, 1956, S. 25.

Schedule 1B — Article 6, Note 1 (contd.)
create mortgage by deposit of title deeds and was not chargeable under Article 40 but was chargeable under Article 6. **AIR 1970 All 644 (647) = 1970 All LJ 864 (SB).**

(2) An agreement relating to pawn or pledge and made by way of security for the repayment of money advanced or to be advanced in future by the bank to the borrower is a document liable to stamp duty under Article 6 (2) of Sch. 1-B. (1968) 38 Com Cas 620 (627) = ILR (1968) 1 All 394 (DB).

Description of Instrument 1	Proper Stamp Duty 2
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to secure his admission as an attorney in any High Court.	Three hundred seventy-five rupees.
ASSIGNMENT. See Conveyance (No. 23), Transfer (No. 62), and Transfer of Lease (No. 63), as the case may be.	
ATTORNEY, See Entry as an Attorney (No. 30), and power-of-attorney (No. 48).	
AUTHORITY TO ADOPT. See Adoption Deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates, does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) if it exceeds Rs. 1,000 for every additional Rs. 1,000 or part thereof;	°One rupee, fifty naye paise.
(c) where the subject-matter of award is incapable of valuation.	°Twenty-two rupees and fifty naye paise.
Exemption	
Award under the Bombay District Municipal Act, 1901, section 160, or the Bombay Hereditary Offices Act, 1874, Section 18, or the Uttar Pradesh Municipalities Act, 1916, section 324 (1) of the Uttar Pradesh District Boards Act, 1922, sec. 190 (1).	

[°] Substituted for 'one rupee' and 'fifteen rupees' respectively by U. P. Act 25 of 1962, S. 8 (1-1-1963).

°[**15. BOND** [as defined by section 2 (5) not being a Debenture (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870—	
Where the amount or value secured does not exceed Rs. 10.	Thirty-five naye paise.
Where it exceeds Rs. 10 but does not exceed Rs. 50.	Seventy-five naye paise.
Where it exceeds Rs. 50 but does not exceed Rs. 100.	Two rupees and 25 naye paise.
Where it exceeds Rs. 100 but does not exceed Rs. 200.	Four rupees and fifty naye paise.
Where it exceeds Rs. 200 but does not exceed Rs. 300.	Six rupees and seventy-five naye paise.
Where it exceeds Rs. 300 but does not exceed Rs. 400.	Nine rupees.
Where it exceeds Rs. 400 but does not exceed Rs. 500.	Eleven rupees and twenty-five naye paise.
Where it exceeds Rs. 500 but does not exceed Rs. 600.	Thirteen rupees and fifty naye paise.

Schedule 1B — Article 15, Note 1

(1) Obligation to pay money contained in penalty clause which would come into operation on the breach of principal covenant — Document held merely an agreement chargeable under Art. 5 and not a bond chargeable under Article 15. AIR 1972 All 466 (469) = 1972 All LJ 618.

(2) Where a document containing an undertaking to pay the purchase money respecting the sale evidenced by it is executed by the purchaser and is also attested by witnesses, it takes the form of a bond and does not remain an agreement to sell and is chargeable to stamp duty under Article 15. **AIR 1971 All 430 (432) = 1971 All LJ 640 (FB).**

(3) Where the executant of an instrument undertakes to save the Government from loss that may be caused to it by his conduct in not paying the Sales Tax when demanded, the instrumest is an indemnity bond liable to duty under Article 34 and not under Article 15. **AIR 1972 All 8 (12) = 1971 All LJ 885 (SB).**

Description of Instrument 1	Proper Stamp Duty 2
Where it exceeds Rs. 600 but does not exceed Rs. 700.	Fifteen rupees and seventy-five naye paise.
Where it exceeds Rs. 700 but does not exceed Rs. 800.	Eighteen rupees.
Where it exceeds Rs. 800 but does not exceed Rs. 900.	Twenty-rupees and twenty-five naye paise.
Where it exceeds Rs. 900 but does not exceed Rs. 1,000.	Twenty-two rupees and fifty naye paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Eleven rupees and fifty naye paise.
See Administration Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).	
Exemptions	
Bond, when executed by— (a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act; (b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.]	

[*] Substituted for former Art. 15 by U. P. Act XXV of 1962, S. 8 (1-1-1963).

16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for a sum equal to the amount or value secured.
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled) if attested and not otherwise provided for.	Eighteen rupees.

[*] Substituted for '12 rupees' by U. P. Act 25 of 1962, S. 8 (1-1-1963).

See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	
*[17A. Certificate of enrolment under S. 22 of the Advocate's Act, 1961, issued by the State Bar Council of Uttar Pradesh.	Two hundred and fifty rupees.
17B. Certificate of practice as Notary under sub-section (1) of S. 5, Notaries Act, 1952, or endorsement of renewal of such certificate under sub-section (2) of the said section.	Five hundred rupees.]

[*] Inserted by U. P. Act X of 1971, S. 2 (18-1-1971).

18. CERTIFICATE OF SALE, (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—	
(a) where the purchase money does not exceed Rs. 10;	Thirty-five naye paise*.
(b) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25;	Seventy-five naye paise.*
(c) in any other case.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase money only.

[*] Substituted by U. P. Act 25 of 1962, S. 8 (1-1-1963).

Description of Instrument 1	Proper Stamp Duty 2
19. CERTIFICATE OR OTHER DOCUMENT, evidencing the right or title of the holder thereof or any other person either to any shares, scrip or stock in or of any incorporated Company or other body Corporate or to become proprietor of shares, scrip or stock in or of any such Company or body.	Thirty-five naye paise.*
[*] Substituted by U. P. Act 25 of 1962, S. 8 (1-1-1963).	
See also Letter of Allotment of shares (No. 36).	
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Four rupees and fifty naye paise.*
[*] Substituted by U. P. Act 25 of 1962, S. 8 (1-1-1963).	
* * * * * * * *	
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit ot his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors, or under letters of licence, for the benefit of his creditors.	Thirty rupees.
[*] Substituted by U. P. Act 25 of 1962, Section 8 (1-1-1963).	
*[**23. CONVEYANCE** [as defined by section 2 (10)], not being a Transfer charged or exempted under No. 62—	
†[where the amount or value of the consideration for such conveyance as set forth therein or the market value of the property which is the subject of such conveyance, whichever is greater, does not exceed Rs. 50.]	One rupee and fifty naye paise.
where it exceeds Rs. 50 but does not exceed Rs. 100;	Four rupees and fifty naye paise.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Nine rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Thirteen rupees and fifty naye paise.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Eighteen rupees.

Schedule 1B — Article 23, Note 1

(1) Where there is no deed of conveyance of transfer to shares of a company but there is merely an agreement to sell them the particulars to be filed before the Registrar under Section 104 of Companies Act are liable to duty under Article 5 (c) of Schedule 1B and not under Article 23 of the Schedule. **AIR 1959 All 595 (597) (SB).**

(2) Where property is sold subject to a contingent liability within the meaning of Section 24 in case the Bank made any advances in future the value of consideration for the purpose of charging duty under Article 23 is the actual consideration plus the amount which was charged upon it. AIR 1972 All 252 (261) = 1972 All LJ 238.

(3) Suit by bank against executants on mortgages executed by them — Compromise between the parties and power delegated by executants to Bank to sell property covered by mortgage decree in Bank's favour and for appropriation of sale proceeds towards decretal amount and surplus to be paid to executants — **Held** the compromise was a good consideration for appointment of agent but was not a valuable consideration. The instrument was not chargeable to duty under Article 48 (f) read with Article 23 of Sch. 1B. AIR 1970 All 599 (603) — 1970 All LJ 464.

Description of Instrument (1)	Proper Stamp Duty (2)
where it exceeds Rs. 400 but does not exceed Rs. 500;	Twenty-two rupees and fifty naye paise.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Twenty-seven rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Thirty-one rupees and fifty naye paise.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Thirty-six rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Forty rupees and fifty naye paise.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Forty-five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Twenty-two rupees and fifty naye paise.
Exemption Assignment of copyright in musical works by resident of, or first published in India.]	

[*] Substituted for former Art. 23 by U. P. Act 25 of 1962, Section 8 (1-1-1963).
[†] Substituted by U. P. Act XI of 1969, Section 3 (ii) (1-10-1969).

CO-PARTNERSHIP DEED, See Partnership (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed °[three rupees].	†[Two rupees and twenty-five paise] when the copy or extract is of an agricultural lease or of a mortgage deed or sale deed of agricultural land; in any other case †[three rupees].
(ii) in any other case not falling within the provisions of section 6-A.	†[Three rupees] when the copy or extract is of an agricultural lease or of a mortgage deed or sale deed of agricultural land and the value of the subject-matter of the original does not exceed one thousand rupees; in any other case †[four rupees and fifty naye paise.]
Exemptions (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose. (b) Copy of, or extract from, any register relating to births, baptisms, dedications marriages, divorces, deaths or burials.	

[°] Substituted by U. P. Act XIV of 1963, Section 3 (2) (25-5-1963).
[†] Substituted by U. P. Act XXV of 1962, Section 8 (xvii) (b) (1-1-1963).

25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed °[four rupees and fifty naye paise;]	The same duty as is payable on the original.
(b) in any other case not falling within the provisions of section 6-A.	°[Four rupees and fifty naye paise.]
Exemption Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	

[*] Substituted for "three rupees" by U. P. Act 25 of 1962, Section 8 (xviii) (1-1-1963).

°[25-A. **COUNTERPART OR DUPLICATE** including counterfoil or carbon copy of a bill or cash memo. for an amount exceeding five rupees required to be	Ten paise.]

Description of Instrument (1)	Proper Stamp Duty (2)
maintained under any law relating to tax on the sale or purchase of goods for the time being in force. **Note.**—The Explanation to Section 3 shall not apply to the duty prescribed in this Article.]	

[*] Inserted by U. P. Act XI of 1972 after renumbering original Art. 25-A as Art. No. 34-A, Section 18 (with retrospective effect from 15-11-1971).

*[**26. CUSTOMS BOND.**	Subject to a maximum of one hundred rupees the same duty as on a Bond (No. 15).]

[*] Substituted by U. P. Act XLIII of 1958, Section 7 (vii) (w. e. f. 1-4-1959).

27. See Schedule I-A.	
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns, or holder thereof to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	Twenty-five naye paise.
DEPOSIT OF TITLE DEEDS [See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).]	
DISSOLUTION OF PARTNERSHIP—See Partnership (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Eight rupees.
DOWER — Instrument of — See Settlement (No. 58).	
DUPLICATE — See Counterpart (No. 25).	
30. Omitted by U.P. Act X of 1971, S. 3 (18-1-1971).	
31. EXCHANGE OF PROPERTY — Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT — See COPY (No. 24).	
32. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgage property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in Cl. (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given; or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT — Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property.
HIRING AGREEMENT or Agreement for Service. See Agreement (No. 5).	

Deescription of Instrument (1)	Proper Stamp Duty (2)
34. INDEMNITY BOND.	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP DEED, See Composition Deed (No. 22).	
INSURANCE — See Policy of Insurance (No. 47).	
°[34-A. An instrument correcting a purely clerical error in an instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed five rupees;	One-half of the duty payable on the original.
(b) in any other case.	†[Three rupees.]
35. LEASE [including an under-lease or sub-lease and any agreement to let or sub-let]—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term not exceeding one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term exceeding one year but not exceeding five years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years but not exceeding ten years;	The same duty as a Conveyance (No. 23) for a consideration equal to one and a half times the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years but not exceeding twenty years;	The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years but not exceeding thirty years;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years;	The same duty as a Conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rent which would be paid or delivered in respect of the first fifty years of the lease.

[°] Original Art. 25-A renumbered as Art. 34-A by U. P. Act XI of 1972, Section 18 (with retrospective effect from 15-11-1971).

[†] Substituted by U. P. Act XLIII of 1958, Section 7 (vi) (with effect from 1-4-1959).

Schedule 1B — Article 34, Note 1

(1) 'Indemnity bond' and 'bond' — Executant undertaking to save Government from loss that may be caused to it by his conduct in not paying sales tax when demanded — Agreement is an indemnity bond liable to duty under Article 34 and not under Art. 15. **AIR 1972 All 8 (12) = 1971 All LJ 885 (SB).**

Schedule 1B — Article 35, Note 1

(1) **Held** that the instrument was an agreement to let within the meaning of Article 35 and was liable to be stamped under it. **AIR 1972 All 519 (531) = 1972 All LJ 632 (SB).**

(2) An agreement to lease under Art. 35 does not exclude an agreement to lease which does not effect a demise either in present or in future but contemplates and binds parties to make a lease in future. AIR 1972 All 519 (525) = 1972 All LJ 632.

(3) Where the lease deed showed that it was for five years and the rent was fixed and the amount fixed for payment was not for a fine or a premium or for money advanced the lease is covered by Art. 35 (a) (ii) and not by 35 (4) of Schedule 1B (U. P.). 1965 All LJ 232.

Description of Instrument (1)	Proper Stamp Duty (2)
(viii) where the lease does not purport to be for any definite term.	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that in any case when an agreement to lease is stamped with the ad valorem stamp required for lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed *[two rupees twenty-five naye paise.]
Exemption Lease, executed in the case of cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. In this exemption a lease for the purposes of cultivation shall include a lease of land for cultivation together with a homestead or tanks. Explanations.—(1) When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses or the owners' share of municipal rates or taxes which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent. (2) A lease from month to month or year to year without any fixed period or one for a fixed period with a provision allowing the lessee to hold over thereafter for an indefinite term, shall be deemed for the purposes of this article to be a lease not purporting to be for any definite term. (3) Rent paid in advance shall be deemed to be money advanced within the meaning of this article unless it is specifically provided in the lease that rent paid in advance will be set off towards the last instalment or instalments of rent.	
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company. See also Certificate or other Document (No. 19).	*[Thirty naye paise.]
37. * * * * * * * * * * *	

[*] Substituted for "two rupees" by U. P. Act XXV of 1962, S. 8 (xx) (1-1-1963).

[*] Substituted for "25 naye paise" by U. P. Act XXV of 1962, S. 8 (xxi) (1-1-1963).

Description of Instrument (1)	Proper Stamp Duty (2)
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	*[Thirty rupees.]

[*] Substituted for "twenty rupees" by U.P. Act XXV of 1962, Section 8 (xxii) (1-1-1963).

*[39. **MEMORANDUM OF ASSOCIATION OF A COMPANY—**	
(a) if accompanied by Articles of Association under section 26 of the Companies Act, 1956;	†[Ninety rupees.]
(b) if not so accompanied.	†[Two hundred and forty rupees.]
Exemption	
Memorandum of any association not formed for profit and registered under section 25 of the Companies Act, 1956.]	

[*] Substituted by U.P. Act XLIII of 1958, Section 7 (viii) (with effect from 1-4-1959).

[†] Substituted by U.P. Act XXV of 1962, Section 8 (xxiii) (1-1-1963).

40. MORTGAGE DEED, not being an agreement relating to deposit of Title Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56) or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid.	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor who gives the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped;	
for every sum secured not exceeding Rs. 1,000;	*[Two rupees and twenty-five naye paise.]
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	*[Two rupees and twenty-five naye paise.]

Schedule 1B — Article 40. Note 1

(1) Applicability — Hypothecation bond executed by Directors on behalf of company — **Held,** Article 40 (b) and not Article 57 applied. AIR 1964 All 519 (520 to 522) = 1964 All LJ 592 (DB). (AIR 1931 All 181 **(FB)**. **Held** not good law.)

(2) Where a person executed in favour of a bank, document by which the bank agreed to grant cash credit facilities upto a maximum limit of Rs. 1,75,000 at any one time against the pledge of goods in the account of such person's firm with the bank upon having the repayment secured by a first mortgage by deposit of title deeds of certain land as collateral security.

Held that the deed evidenced an agreement pledging goods and also an agreement purporting to create a first mortgage by deposit of title deeds. It was not therefore chargeable under Article 40 but was chargeable under Article 6. AIR 1970 All 644 (647) = 1970 All LJ 864.

Description of Instrument (1)	Proper Stamp Duty (2)
Exemptions	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	

[*] Substituted for "two rupees" by U. P. Act XXV of 1962, S. 8 (xxiv) (1-1-1963).

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—for every sum secured not exceeding rupees 200;	*[Thirty-five naye paise.]
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	*[Thirty-five naye paise.]
(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument:—	
for every sum secured not exceeding Rs. 100;	*[Sixty naye paise.]
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	*[Sixty naye paise.]

[*] Substituted by U. P. Act XXV of 1962, Section 8 (xxv) (1-1-1963).

42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public. See also Protest of Bill or Note (No. 50).	*[Three rupees and fifty naye paise.]

[*] Substituted for "three rupees" by U. P. Act XXV of 1962, Section 8 (xxvi) (1-1-1963).

43. NOTE OR MEMORANDUM sent by a broker or agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	*[Sixty naye paise.]
(b) of any stock of marketable security exceeding in value twenty rupees.	Subject to a maximum of *[forty-five rupees]; *[Sixty naye paise] for every Rs. 10,000 or part thereof of the value of stock or security.

[*] Substituted by U. P. Act XXV of 1962, Section 8 (xxvii) (1-1-1963).

44. NOTE OF PROTEST by the Master of a Ship. See also Protest by the Master of a Ship (No 51).	One rupee and fifty naye paise.
ORDER FOR THE PAYMENT OF MONEY. See Bill of Exchange (No. 13).	

Description of Instrument (1)	Proper Stamp Duty (2)
45. PARTITION — Instrument of [as defined by section 2 (15).]	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. **N. B.**—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated. Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument but shall not be less than *[two rupees twenty-five naye paise;] (b) where land is held on Revenue Settlement, the value for the purposes of this article shall be deemed to be— (i) twenty times the annual revenue; and (ii) ten times the net profits that have arisen from the land during the year next before the date of partition, where the land is wholly or partly exempt from payment of revenue; (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed *[two rupees twenty-five naye paise.]
*[46. PARTNERSHIP— A—Instrument of— (a) where the capital of the partnership does not exceed Rs. 4,000‡; (b) in any other case. B—Dissolution of—	The same duty as on a Bond (No. 15). One hundred rupees. †[Twenty-two rupees and fifty naye paise.]
PAWN OR PLEDGE, See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	

[*] Substituted for "2 rupees" by U. P. Act XXV of 1962, Section 8 (xxviii) (1-1-1963).

[*] Substituted by U. P. Act XLIII of 1958, Section 7 (xi) (with effect from 1-4-1959).
[†] Substituted by U. P. Act of 1962, Section 8 (xxix) (1-1-1963).
[‡] Substituted for "Rs. 5,000" by U. P. Act XIV of 1963, Section 3 (3) (25-5-1963).

Schedule 1B — Article 45, Note 1

(1) Where the partners divide the assets and liabilities of the firm and in the deed of dissolution the assets allotted to each are stated to be less than the liabilities allotted, then assuming the deed to be also a deed of partition, no additional duty would be payable the value of shares being nil. AIR 1971 All 523 (526) = 1971 All LJ 719.

Description of Instrument (1)	Proper Stamp Duty (2)
47. * * * * *	* * * * * * *
48. **POWER OF ATTORNEY** [as defined in section 2 (21)], not being a Proxy (No. 52)—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee and fifty naye paise.
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	One rupee and fifty naye paise.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	Two rupees and fifty naye paise.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	*[Seventeen rupees.]
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	*[Thirty-three rupees and seventy-five naye paise.]
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(g) in any other case.	*[Three rupees and thirty-five naye paise for each person authorised.]
N. B.—The term "registration" includes every operation incidental to registration under the Indian Registration Act (Act XVI of 1908).	
Explanation	
For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
[*] Substituted by U. P. Act XXV of 1962, Section 8 (xxx) (1-1-1963).	
49. * * * * *	* * * * * * *
50. **PROTEST OF BILL OR NOTE**, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.	Three rupees.
51. **PROTEST BY THE MASTER OF A SHIP**, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested	Three rupees.

Schedule 1B — Article 48, Note 1

(1) The Bank filed suits for the recovery of the amount by sale of the property mortgaged. There was a compromise between the parties and a power of attorney was executed in favour of the Bank in compliance therewith. The Bank was authorised to sell the property by public auction for payment of the amount due under the decrees passed in the suits and pay the surplus to the executants.

Held, that a consideration in relation to powers of attorney could only mean a valuable consideration and not a good consideration. The compromise was a good consideration so far as the appointment of agent or attorney was concerned. But it was not a valuable consideration. The instrument, therefore, was not chargeable with duty under Article 48 (f) read with Article 23 of Schedule 1B of the Stamp Act. AIR 1970 All 599 (603) = 1970 All LJ 464.

Description of Instrument 1	Proper Stamp Duty 2
or certified by a Notary Public or other person lawfully acting as such. See also Note of Protest by the Master of a Ship (No. 44).	
52. * * * * *	* * * * * * *
53. * * * * *	* * * * * * *
54. **RECONVEYANCE OF MORTGAGED PROPERTY—** (a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000; (b) in any other case.	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance. *[Forty-five rupees.]
55. RELEASE, that is to say, any instrument, not being such a release as is provided for by section 23 (A) whereby a person renounces a claim upon another person or against any specified property— (a) if the amount or value of the claim does not exceed *[Rs. 2,000]; (b) in any other case.	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release. †[Fifty rupees.]
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT. See Settlement (No. 58); Trust (No. 64).	
57. SECURITY BOND OR MORTGAGE DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract or the due discharge of a liability,— (a) when the amount secured does not exceed Rs. 1,000; (b) in any other case.	The same duty as a Bond (No. 15) for the amount secured. *[Twenty-two rupees and fifty naye paise.]
Exemptions Bond or other instrument, when executed— (a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act; (b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall be not less than a specified sum per mensem;	

[*] Substituted for "Thirty rupees" by U. P. Act XXV of 1962, Section 8 (xxxi) (1-1-1963).

[*] Substituted for "Rs. 3,000" by U. P. Act XI of 1963, Section 3 (3) (25-5-1963).

[†] Substituted for "fifteen rupees" by U. P. Act XLIII of 1958, Section 7 (xiii) (with effect from 1-4-1959).

Schedule 1B — Article 57, Note 1

(1) Security bond — Executants declaring themselves to be sureties for executant of an indemnity bond — It is a 'security bond' chargeable with a duty of Rs. 18 under Article 57. **AIR 1972 All 8 (12) = 1971 All LJ 885 (SB).**

(2) Hypothecation bond executed by Directors on behalf of company — **Held** Art. 40 (b) applied and not Article 57 as the bond was not executed by surety to secure the discharge of a liability. AIR 1964 All 519 (522).

Description of Instrument (1)	Proper Stamp Duty (2)
(c) under No. 3-A of the rules made by the Provincial Government under section 70 of the Bombay Irrigation Act, 1879; (d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (e) executed by the officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.	

[*] Substituted for "Eighteen rupees" by U. P. Act XXV of 1962, Section 8 (xxxii) (1-1-1963).

58. SETTLEMENT— A.—Instrument of (including a deed of dower).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled, provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed *[two rupees twenty-five naye paise].
Exemptions Deed of dower executed on the occasion of a marriage between Muhammadans.	
B.—Revocation of—	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, but not exceeding *[thirty-six rupees.]

[°] Substituted by U. P. Act XXV of 1962, Section 8 (xxxiii) (1-1-1963).

See also Trust (No. 64). **59. SHARE WARRANTS** to bearer issued under the Indian Companies Act°, 1913.	The same duty as a Debenture transferable by delivery [(No. 27 (b)] for a face amount equal to the nominal amount of the shares specified in the warrant.
Exemptions Share warrant when issued by a Company in pursuance of the Indian Companies Act, 1913, section 43†, to have effect only upon payment, as composition for that duty, to the Collector of Stamp Revenue of— (a) one and a half per centum of the whole subscribed capital of the company, or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—one and a half per centum of the additional capital so issued.	
[°] See now the Companies Act, 1956. [†] See now Section 114, ibid.	
SCRIP.—See Certificate (No. 19). **60. SHIPPING ORDER** for or relating to the conveyance of goods on board of any vessel.	Twenty-five naye paise.

Schedule 1B — Article 58, Note 1

(1) By terms of an instrument future rental income of two houses was to be utilised by trustee for benefit of minor children of donor — Instrument held to be a settlement — Article 58 of Schedule 1B attracted and not Article 64. **AIR 1964 All 537 (541) (SB).**

Description of Instrument (1)	Proper Stamp Duty (2)
61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed *[twenty-two rupees and fifty naye paise];	The duty with which such lease is chargeable.
(b) in any other case.	*[Twenty-two rupees and fifty naye paise].
Exemption	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(a) See Schedule I-A.	
°[(b) of debentures, being marketable securities whether the debenture is liable to duty or not, except debentures provided for by Section 8;	
	Rs.
When the value of the share or the face amount of the debenture does not exceed Rs. 100.	1.50
Where it exceeds Rs. 100 but does not exceed Rs. 200.	3.00
Where it exceeds Rs. 200 but does not exceed Rs. 300.	4.50
Where it exceeds Rs. 300 but does not exceed Rs. 400.	6.00
Where it exceeds Rs. 400 but does not exceed Rs. 500.	7.50
Where it exceeds Rs. 500 but does not exceed Rs. 600.	9.00
Where it exceeds Rs. 600 but does not exceed Rs. 700.	11.25
Where it exceeds Rs. 700 but does not exceed Rs. 800.	13.50
Where it exceeds Rs. 800 but does not exceed Rs. 900.	15.75
Where it exceeds Rs. 900 but does not exceed Rs. 1,000.	18.00
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	9.00].
(c) of any interest secured by a bond, mortgage deed or policy of insurance—	
(i) if the duty on such bond, mortgage deed or policy does not exceed *[twenty-two rupees and fifty paise.]	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case.	°[Twenty-two rupees and fifty naye paise.] Provided that, if by any one instrument the interest secured by several bonds, mortgage deeds, or policies of insurance is transferred, the duty payable in respect of such instrument shall be aggregate of the duties which would have been payable if separate instruments of transfer were executed in respect of each such bond, mortgage deed or policy of insurance.
(d) of any property under Administrator-General's Act, 1913, Section 25;	°[Thirty-three rupees and seventy-five naye paise.]
(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	*[Seventeen rupees], or such smaller amount as may be chargeable under clauses (b) and (c) of this article.
Exemptions	
Transfer by endorsement—	
(a) of a bill of exchange, cheque or promissory note;	

[*] Substituted for "fifteen rupees" by U. P. Act XXV of 1962, Section 8 (xxxiv) (1-1-1963).

Description of Instrument (1)	Proper Stamp Duty (2)
(b) of a bill of lading, delivery order, warrant for goods or other mercantile document of title to goods; (c) of policy of insurance; (d) of securities of the Central Government or the Provincial Government. See also S. 8.	

[°] Substituted by U. P. Act XXV of 1962, S. 8 (XXXV) (1-1-1963).

63. TRANSFER OF LEASE by way of assignment, and not by way of underlease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption Transfer of any lease exempt from duty.	
°[64. TRUST—	
A.—DECLARATION OF — of, or concerning, any property when made by any writing not being a Will. (a) where the amount or value does not exceed Rs. 10,000; (b) where such amount exceeds Rupees 10,000;	The same duty as on a Bond (No. 15). On ten thousand rupees, the duty payable under clause (a), and on the remainder, two rupees for every additional one thousand rupees or part thereof.
B.—REVOCATION OF — of, or concerning, any property when made by any instrument other than a Will.	The same duty as on a Bond (No. 15) for a sum equal to the amount or value of the property concerned but not exceeding †[forty-five rupees.]]

[°] Substituted by U. P. Act XLIII of 1958, S. 7 (xvii) (w. e. f. 1-4-1959).

[†] Substituted for '30 rupees' by U. P. Act XXV of 1962, S. 8 (XXXVI) (1-1-1963).

See also Settlement (No. 58). VALUATION. See Appraisement (No. 8). VAKIL. See Entry as a Vakil (No. 30).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	*[One rupee, and fifteen naye paise.]

[°] Substituted for 'One rupee' by U. P. Act XXV of 1962, S. 8 (xxxvii) (1-1-1963).

SCHEDULE I-A

WEST BENGAL

NOTE.—By virtue of section 3 of the Indian Independence Act, 1947, the Province of Bengal as constituted under the Government of India Act, 1935 ceased to exist and in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal, were constituted. While East Bengal went over to the Dominion of Pakistan, the Province of West Bengal formed part of India and is now known under the Constitution of India as the State of West Bengal.

The present State of West Bengal includes—

(a) the territories which formulated the former Province of West Bengal immediately before the 26th of January, 1950.

(b) the territory of the Indian State of Cooch Behar which merged in West Bengal in 1949;

Schedule IB — Article 64, Note 1

(1) By terms of an instrument future rental income of two houses was to be utilised by trustee for benefit of minor children of donor — Instrument held to be a "settlement" — Atricle 58 of Schedule 1B attracted and not Article 64. **AIR 1964 All 537 (540) (SB).**

(c) the free town of Chandernagore which merged in West Bengal in 1954; and

(d) the territories of the State of Bihar transferred from that State and added to the State of West Bengal as from the 1st of November, 1956 under the provisions of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).

The principal Act, namely, the Indian Stamp Act, 1899 applied to the Province of Bengal as amended by Bengal Acts III of 1922, XII of 1935 and VII of 1939. By virtue of section 18 (3) of the Indian Independence Act, 1947, the existing stamp law continued to be in force in the State of West Bengal. And the effect of the provisions contained in—

(i) section 3 of the Cooch Behar (Assimilation of State Laws) Act, 1950 (W. B. LXIII of 1950);

(ii) section 3 of the Chandernagore (Assimilation of Laws) Act, 1955 (W. B. IV of 1955);

(iii) section 3 of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1958 (W. B. XIX of 1958).

is that the principal Act, as amended from time to time in its application to the State of West Bengal, now extends to the whole of the said State.

The Schedule has further been amended by W. B. Acts X of 1962, XXX of 1962; XVII of 1964; and XXXI of 1972.

W. B. Act XVIII of 1962 exempts Bhoodan Yajna documents from stamp duty, Indian Stamp (W. B. Amendment) Act, 1964 (XVII of 1964), S. 4 has levied a surcharge of one-fifth of stamp duty payable on instruments covered by Arts. 18, 23, 31, 32, 33, 35, 40, 54, 58 and 63 of Sch. I-A (1-12-1964), S. 5 of this Act provides for rounding off of stamp duty or surcharge to the next higher multiple of five if it is not a multiple of five.

SCHEDULE IA

STAMP-DUTY ON CERTAIN INSTRUMENTS UNDER THE BENGAL STAMP (AMENDMENT) ACT, 1922 OR THE INDIAN STAMP (BENGAL AMENDMENT) ACT, 1935.

(See section 3, first proviso inserted by Ben. Act III of 1922.)

[Note.—The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I.]

Description of Instrument (1)	Proper Stamp Duty (2)
*[1. **ACKNOWLEDGMENT** of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a Banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay a debt or any stipulation to pay interest or to deliver any goods or any other property but not including an acknowledgment relating to bills of exchange, cheques or promissory notes, bills of lading, letters of credit, policies of insurance, shares, debentures proxies or receipts.	Ten naye paise.]
[*] Ins. by W. B. Act XXX of 1962, S. 3 (i) (1-4-1968).	
2. ADMINISTRATION-BOND, including a bond given under S. 6 of the Government Savings Banks Act, 1873, or section 291 or section 375 or section 376 of the Indian Succession Act, 1925— (a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.

Description of Instrument (1)	Proper Stamp Duty (2)
(b) in any other case.	*[Rupees fifteen].

[*] Substituted for "10 rupees" by W. B. Act XXX of 1962, S. 3 (2) (1-4-1963).

3. ADOPTION-DEED, that is to say, any instrument (other than a will), recording an adoption or conferring or purporting to confer an authority to adopt.	*[Thirty rupees].

[*] Substituted for '20 rupees' by W. B. Act XXX of 1962, S. 3 (3) (1-4-1963).

ADVOCATE. See Entry as an Advocate (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	*[Rupees three].
Exemptions	
Affidavit or declaration in writing when made—	
(a) as a condition of enlistment under the Army Act, 1950;*	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	

[*] Substituted by W. B. Act XXX of 1963, S. 3 (4) (1-4-1963).

5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	*[Forty naye paise]*.
(b)—	
(i) if relating to the sale of a Government security;	Subject to a maximum of *[rupees thirty, twenty naye paise] for every Rs. 10,000 or part thereof, of the value of the security.
(ii) if relating to the sale of a share in an incorporated company or other body corporate.	*[Twenty naye paise]* for every Rs. 5,000 or part thereof, of the value of the share.
†[(c) if relating to matters not otherwise provided for except matters relating to cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfers of shares, debentures, proxies or receipts.]	One rupee.
Exemptions	
Agreement or memorandum of agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 43;	
(b) made in the form of tenders to the Central Government for, or relating to, any loan;	
(c) ‡[* * * *	

[*] Substituted by W. B. Act XVII of 1964, S. 3 (1-12-1964).

[†] Substituted by W. B. Act XXX of 1962, S. 3 (5) (1-4-1964).

[‡] Omitted, ibid.

AGREEMENT TO LEASE. See Lease (No. 35).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	

Description of Instrument (1)	Proper Stamp Duty (2)
(2) the pawn or pledge of moveable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	
	If drawn singly. / **If drawn in set of two, for each part of the set.** / **If drawn in set of three, for each part of the set.**
(i) when the amount of the loan or debt does not exceed Rs. 200;	Rs. P. 0.60 / 0.40 / 0.20
(ii) when it exceeds Rs. 200 but does not exceed Rs. 400;	1.15 / 0.60 / 0.40
when it exceeds Rs. 400 but does not exceed Rs. 600;	1.70 / 0.95 / 0.60
when it exceeds Rs. 600 but does not exceed Rs. 800;	2.25 / 1.15 / 0.75
when it exceeds Rs. 800 but does not exceed Rs. 1,000;	2.85 / 1.50 / 0.95
when it exceeds Rs. 1,000 but does not exceed Rs. 1,200;	3.40 / 1.70 / 1.15
when it exceeds Rs. 1,200 but does not exceed Rs. 1,600;	4.50 / 2.25 / 1.50
when it exceeds Rs. 1,600 but does not exceed Rs. 2,500;	6.75 / 3.40 / 2.25
when it exceeds Rs. 2,500 but does not exceed Rs. 5,000;	13.50 / 6.75 / 4.50
when it exceeds Rs. 5,000 but does not exceed Rs. 7,500;	20.25 / 10.15 / 6.75
when it exceeds Rs. 7,500 but does not exceed Rs. 10,000;	27.00 / 13.50 / 9.00
when it exceeds Rs. 10,000 but does not exceed Rs. 15,000;	40.50 / 20.25 / 13.50
when it exceeds Rs. 15,000 but does not exceed Rs. 20,000;	54.00 / 27.00 / 18.00
when it exceeds Rs. 20,000 but does not exceed Rs. 25,000;	67.50 / 33.75 / 22.50
when it exceeds Rs. 25,000 but does not exceed Rs. 30,000;	81.00 / 40.50 / 27.00
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000;	27.00 / 13.50 / 9.00
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured. °[Provided that such duty shall, if not an exact multiple of five paise, be rounded upto the next higher multiple of five naye paise.]

[*] Substituted and inserted by W. B. Act XXX of 1963, S. 3 (6) (1-4-1963).

7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immoveable, where made by any writing not being a will.	[Rupees thirty-seven and fifty naye paise.]*

[°] Substituted for "25 Rs." by W. B. Act XXX of 1962, S. 3 (7) (1-4-1963).

8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 16) for such amount.
(b) in any other case.	°[Rupees fifteen.]

Description of Instrument (1)	Proper Stamp Duty (2)
Exemptions (a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law. (b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	

[*] Substituted for "Rs. 10" by W. B. Act XXX of 1962, S. 3 (8) (1-4-1963).

9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11).	*[Rupees fifteen.]

[*] Substituted for 'Rs. 10' by W. B. Act XXX of 1962, S. 3 (9) (1-4-1963).

10. ARTICLES OF ASSOCIATION OF A COMPANY—	
(a) where the nominal share capital does not exceed one lakh of rupees.	*[Rupees seventy-five.]
(b) where the nominal share capital exceeds one lakh of rupees.	*[Rupees one hundred and fifty.]
Exemption	
Articles of any association not formed for profit and registered under Section 26 of the Indian Companies Act, 1913.†	

[*] Substituted by W. B. Act XXX of 1962, S. 3 (1-4-1963).

[†] See now the Companies Act, 1956, S. 25.

See also Memorandum of Association of a Company (No. 39).	
*[11. **ARTICLES OF CLERKSHIP OR CONTRACT** whereby any person first becomes bound to serve as a clerk in connection with his admission as an Attorney of any High Court.	Rupees two hundred and fifty.]

[*] Inserted by W. B. Act XXX of 1962, S. 3 (ii) (1-4-63).

ASSIGNMENT. See Conveyance (No. 23), Transfer (No. 62), and Transfer of Lease (No. 63), as the case may be.	
ATTORNEY. See Entry as an Attorney (No. 30), and Power-of-Attorney (No. 48).	
AUTHORITY TO ADOPT. See Adoption-deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	*[Rupees fifteen.]
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000. †[* * * * *].	*[Rupee one, subject to a maximum of rupees one hundred.]

[*] Substituted by W. B. Act XXX of 1962, S. 3 (12) (1-4-1963).

[†] Exemption omitted ibid.

14. BILL OF LADING* (including a through bill of lading).	Six Annas.

Description of Instrument (1)	Proper Stamp Duty (2)
	N.B.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
Exemptions (a) Bill of lading when the goods therein described are received at a place within the limits of any port, as defined under the Indian Ports Act, 1908, and are to be delivered at another place within the limits of the same port. (b) Bill of lading when executed out of British India and relating to property to be delivered in British India.	

[°] See now the Indian Stamp (Amendment) Act, 1955 (xliii of 1955), S. 8.

15. BOND [as defined by section 2 (5)], not being a Debenture (No. 27), and not being otherwise provided for by this Act, or by the Court-fees Act, 1870,—	
where the amount or value secured does not exceed Rs. 10;	°[Twenty naye paise.]
where it exceeds Rs. 10 and does not exceed Rs. 50;	*[fifty naye paise.]
where it exceeds Rs. 50 and does not exceed Rs. 100;	°[Rupee one.]
where it exceeds Rs. 100 and does not exceed Rs. 200;	°[Two rupees.]
where it exceeds Rs. 200 and does not exceed Rs. 300;	*[Rupees three and sixty naye paise.]
where it exceeds Rs. 300 and does not exceed Rs. 400;	°[Rupees four and eighty naye paise.]
where it exceeds Rs. 400 and does not exceed Rs. 500;	*[Rupees six.]
where it exceeds Rs. 500 and does not exceed Rs. 600;	*[Rupees seven and twenty naye paise.]
where it exceeds Rs. 600 and does not exceed Rs. 700;	°[Rupees eight and forty naye paise.]
where it exceeds Rs. 700 and does not exceed Rs. 800;	*[Rupees nine and sixty naye paise.]
where it exceeds Rs. 800 and does not exceed Rs. 900;	°[Rupees ten and eighty naye paise.]
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	*[Rupees twelve.]
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	°[Rupees six.]
See Administration-Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity-bond (No. 34), Respondentia Bond (No. 56), Security-bond (No. 57).	
Exemptions	
Bond, when executed by— (a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act; (b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.	

[*] Substituted for former entries by W. B. Act XXX of 1962, S. 3 (1-4-1963).

*[16. **BOTTOMRY BOND**, that is to say, any instrument whereby the master of a sea-going ship borrows money on the secu-	

Description of Instrument (1)	Proper Stamp Duty (2)
rity of the ship to enable him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 50;	Seventy-five paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	Rupee one and fifty paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Rupees three.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Rupees four and fifty paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Rupees six.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Rupees seven and fifty paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Rupees nine.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Rupees ten and fifty paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Rupees twelve.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Rupees thirteen and fifty paise
where it exceeds Rs. 900 and does not exceed Rs. 1000;	Rupees fifteen.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Rupees seven and fifty paise.]

[*] Substituted by W. B. Act XXXI of 1972, S. 3 (1-11-1972).

17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	*[Rupees ten].

[*] Substituted by W. B. Act XXX of 1962, S. 3 (15) (1-4-1963).

See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer—	
(a) where the purchase-money does not exceed Rs. 10;	*[Forty naye paise.]
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;	*[Seventy-five naye paise.]
(c) in any other case.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money, only.

[*] Substituted by W. B. Act XXX of 1962, S. 3 (16) (1-4-1963).

*[19. Certificate or other document evidencing the right or title, otherwise than by transfer, of the holder thereof or any other person, either to any share, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of share, scrip or stock in or of any such company or body.	Twenty naye paise.]

[*] Inserted by W. B. Act XXX of 1962, S. 3 (17) (1-4-1963).

See also letter of allotment of shares.	
20. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the	*[Rupees three.]

Description of Instrument (1)	Proper Stamp Duty (2)
charterer, whether it includes a penalty clause or not.	

[°] Substituted for "two rupees" by W. B. Act XXX of 1962, S. 3 (18) (1-4-1963).

21. * * *	
22. **COMPOSITION-DEED,** that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuation of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	*[Rupees thirty.]

[*] Substituted for "20 rupees" by W. B. Act XXX of 1962, S. 3 (19) (1-4-1963).

°[23. **CONVEYANCE** [as defined by section 2 (10)], not being a Transfer charged or exempted under No. 62—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Rupee one and fifty naye paise.
where it exceeds Rs. 50 but does not exceed Rs. 100;	Rupees three.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Rupees six.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Rupees nine.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Rupees twelve.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Rupees fifteen.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Rupees eighteen.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Rupees twenty-one.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Rupees twenty-four.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Rupees twenty-seven.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Rupees thirty.
and for every Rs. 500 or part thereof in excess of Rs. 1,000;	Rupees fifteen.
Exemption Assignment of copyright under the Indian Copyright Act, 1957, S. 18.]	

[°] Substituted by W. B. Act XXXI of 1972, S. 3 (ii) (1-11-1972).

CO-PARTNERSHIP-DEED. See Partnership (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee;	°[Rupee one and fifty naye paise].
(ii) In any other case not falling within the provisions of section 6A—	°[Rupees three].
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	

Description of Instrument (1)	Proper Stamp Duty (2)
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	

[°] Substituted by W. B. Act XXX of 1962, S. 3 (21) (1-4-1963).

25. COUNTERPART OR DUPLICATE of any instrument, chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed °[Three rupees.]	The same duty as is payable on the original.
(b) in any other case not falling within the provisions of section 6A.	°[Three rupees].
Exemption	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	

[*] Substituted for 'two rupees' by W. B. Act XXX of 1962, S. 3 (22) (1-4-1963).

26. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a Bottomry Bond (No. 16) for such amount.
(b) in any other case.	°[Rupees fifteen].

[°] Substituted for 'ten rupees' by W. B. Act XXX of 1962, S. 3 (23) (1-4-1963).

27. DEBENTURE* (whether a mortgage debenture or not), being a marketable security transferable—	
(a) by endorsement or by a separate instrument of transfer;—	The same duty as a Bottomry Bond (No. 16) for the same amount.
(b) by delivery.	The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
Explanation.— The term "Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.	
See also Bond (No. 15) and sections 8 and 55.	

[*] See the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), S. 8.

DECLARATION OF ANY TRUST. See Trust (No. 64).	
*[28. **DELIVERY ORDER IN RESPECT OF GOODS**, that is to say, any instrument entitling any person therein named or his assigns or the holder thereof to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any whraf, such instrument being signed by or on behalf of the owner of such goods upon the sale or	Ten naye paise.]

Description of Instrument (1)	Proper Stamp Duty (2)
transfer of the property therein, when such goods exceed in value twenty rupees.	

[°] Inserted by W. B. Act XXX of 1962, S. 3 (24) (1-4-1963).

DEPOSIT OF TITLE-DEEDS. See Agreement relating to deposit of title-deeds, pawn or pledge (No. 6).	
DISSOLUTION OF PARTNERSHIP. See Partnership (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	*[Rupees ten].

[*] Substituted for 'five rupees' by W. B. Act XXX of 1962, S. 3 (25) (1-4-1963).

DOWER—Instrument of. See Settlement (No. 58).	
DUPLICATE. See Counterpart (No. 25).	
*[**30. ENTRY AS AN ATTORNEY ON THE ROLL OF THE HIGH COURT AT CALCUTTA** under any law for the time being in force. Exemption Entry of an attorney on the roll of High Court at Calcutta, when he has previously been enrolled as such in any other High Court.]	†[Two hundred and fifty rupees].

[°] Substituted by W. B. Act X of 1962, S. 3 (w. r. e. f. 1-12-1961).

[†] Substituted for 'five hundred rupees' by W. B. Act XXX of 1962, S. 3 (26) (1-4-1963).

31. EXCHANGE OF PROPERTY — Instrument of—.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. See Copy (No. 24).	
32. FURTHER CHARGE— Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in cl. (a) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a Settlement (No. 58), or will or Transfer (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT or agreement for service. See Agreement (No. 5).	
34. INDEMNITY BOND.	The same duty as a Security-bond (No. 57) for the same amount.
INSPECTORSHIP-DEED. See Composition-deed (No. 22).	

Description of Instrument (1)	Proper Stamp Duty (2)
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bottomry Bond (No. 16) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than five years;	The same duty as a Bottomry Bond (No. 16) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding ten years but not exceeding twenty years;	The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding twenty years but not exceeding thirty years;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.
(vi) where the lease purports to be for a term exceeding thirty years but not exceeding one hundred years;	The same duty as a Conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium, or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered.
	Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed °[rupee one and fifty naye paise.]
Exemptions	
(a) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent re-	

Description of Instrument (1)	Proper Stamp Duty (2)
served does not exceed one hundred rupees. In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a home-stead or tank. †[(b) * * * Explanation.— When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	

[*] Substituted for 'twelve annas' by W. B. Act XXX of 1962, S. 3 (27) (1-4-1963).

[†] Omitted, ibid.

*[36. Letter of allotment of shares in any company or proposed company or in respect of any loan to be raised by any company or proposed company. See also Certificate or other document (No 19).	Twenty naye paise.]

[*] Inserted by W. B. Act XXX of 1962, S. 3 (28) (1-4-1963).

37. * * * LETTER OF GUARANTEE, See Agreement (No. 5).	
38. **LETTER OF LICENSE,** that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	*[Rupees twenty-two and fifty naye paise].

[*] Substituted for 'fifteen rupees' by W. B. Act XXX of 1962, S. 3 (29) (1-4-1963).

39. **MEMORANDUM OF ASSOCIATION OF A COMPANY—**	
(a) if accompanied by articles of association under section 17 of the Indian Companies Act, 1913*;	*[Forty-five rupees].
(b) if not so accompanied—	
(i) where the nominal share capital does not exceed one lakh of rupees;	*[Rupees one hundred.]
(ii) where the nominal share capital exceeds one lakh of rupees.	*[One hundred and sixty rupees.]
Exemption Memorandum of any association not formed for profit and registered under *[sec. 26 of the Companies Act, 1956].	

[*] Substituted by W. B. Act XXX of 1962, S. 3 (30) (1-4-63).

40. **MORTGAGE-DEED,** not being an Agreement relating to deposit of title-deeds, pawn or pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security-bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;—	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid;—	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanations.— A mortgagor who gives to the mortgagee a power-of-attorney to	

Description of Instrument (1)	Proper Stamp Duty (2)
collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	*[Rupee one and fifty naye paise.]
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	*[Rupee one and fifty naye paise.]
Exemptions	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	

[*] Substituted by W. B. Act XXX of 1962, S. 3 (31) (1-4-1963).

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	*[Twelve naye paise.]
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	*[Twelve naye paise.]
(b) when the loan is repayable more than three months but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	*[Forty naye paise.]
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	*[Forty naye paise.]

[*] Substituted by W. B. Act XXX of 1962, S. 3 (32) (1-4-1962).

42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation certificate, or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	*[Rupees three.]
See also Protest of Bill or Note (No. 50).	

[*] Substituted by W. B. Act XXX of 1962, S. 3 (33) (1-4-1963).

43. NOTE OR MEMORANDUM, sent by a broker or agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	*[Forty naye paise.]
(b) of any stock or marketable security exceeding in value twenty rupees but not being a Government security;	*[20 naye paise, for every Rs. 5,000 or part thereof of the value of the stock or security.]
(c) of a Government security.	Subject to a maximum of twenty rupees *[Twenty naye paise, for every Rs. 10,000 or part thereof of the value of the security.]

[*] Substituted by W. B. Act XXX of 1962, S. 3 (34) (1-4-1963).

Description of Instrument (1)	Proper Stamp Duty (2)
44. NOTE OF PROTEST BY THE MASTER OF A SHIP. See also Protest by the Master of a Ship (No. 51).	*[Rupee one and fifty naye paise.]
[*] Substituted by W. B. Act XXX of 1962, S. 3 (35) (1-4-1963).	
45. PARTITION—Instrument of [as defined by section 2 (15).] N. B.—The largest share remaining after the property is partitioned (or if there are two or moore shares of equal value and not smaller than any of the other shares than one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee. (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue; (c) where a final order for effecting a partition passed by any Revenue-authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed the duty on such instrument shall not exceed one rupee.	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.
46. PARTNERSHIP— A.—Instrument of— (a) where the capital of the partnership does not exceed Rs. 500; (b) in any other case. B.—Dissolution of—	*[Ten rupees.] *[Rupees thirty.] *[Rupees fifteen.]
[°] Substituted by W. B. Act XXX of 1962, S. 3 (36) (1-4-1963).	
PAWN OR PLEDGE. See Agreement relating to deposit of title-deeds, pawn or pledge (No. 6).	
47. ° ° ° °	
48. POWER-OF-ATTORNEY [as defined by section 2 (21)], not being a proxy— (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a	*[Rupee one and fifty naye paise.]

Schedule 1A — Article 48 Note 1

(1) Person executing power of attorney in his individual as well as various other capacities in favour of two persons — Instrument does comprise distinct matters — **Held,** — Instrument was chargeable with aggregate amount of stamp duty payable if separate instruments were executed in respect of each of those capacities. **AIR 1956 SC 35 (41). (AIR 1952 Cal 815 (SB), Reversed.)**

Description of Instrument (1)	Proper Stamp Duty (2)
single transaction or for admitting execution of one or more such documents;	
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	*[Rupee one and fifty naye paise.]
(c) when authorizing one person or more to act in a single transaction other than the case mentioned in cl. (a);	*[Rupees three.]
(d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;	*[Rupees fifteen.]
(e) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	*[Rupees thirty.]
(f) when given for consideration and authorizing the attorney to sell any immoveable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(g) in any other case.	Two rupees for each person authorized.
N. B.—The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908.	
Explanation.—For the purposes of this article more persons than one when belonging to the same firm shall be deemed to be one person.	

[*] Substituted by W. B. Act XXX of 1962, S. 3 (37) (1-4-1963).

49. * * *	* * * *
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	*[Rupees three.]

[*] Substituted by W. B. Act XXX of 1962, S. 3 (38) (1-4-1963).

51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	*[Rupees three.]
See also Note of Protest by the Master of a Ship (No. 44).	

[*] Substituted by W. B. Act XXX of 1962, S. 3 (39) (1-4-1963).

52. * * * *	* * * * * *
53. * * * *	* * * * * *
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.
(b) in any other case.	[Rupees thirty.]*

[*] Substituted for "Rs. 22.50" by W. B. Act XXXI of 1972, S. 3 (iii) (1-11-1972).

55. RELEASE, that is to say, any instrument (not being such a release as is provided for by S. 23A), whereby a person re-	

Description of Instrument (1)	Proper Stamp Duty (2)
nounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the release.
(b) in any other case.	*[Rupees fifteen.]

[*] Substituted for 'ten rupees' by W. B. Act XXX of 1962, S. 3 (41) (1-4-1963).

56. **RESPONDENTIA BOND**, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bottomry Bond (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT, See Settlement (No. 58); Trust (No. 64).	
57. SECURITY-BOND OR MORTGAGE-DEED, executed by way of security for the due discharge of a liability or for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case.	*[Rupees fifteen.]
Exemptions	
Bond or other instrument, when executed—	
(a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act.	
(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility shall not be less than a specified sum per mensem;	
†(c) * * *	
(d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances;	
(e) executed by servants of the Crown or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.	

[*] Substituted for 'ten rupees' by W. B. Act XXX of 1962, S. 3 (42) (1-4-1963).

[†] Omitted, ibid.

58. SETTLEMENT—	
A.—Instrument of (including a deed of dower)	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property settled as set forth in such settlement; Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed *[Rupee one and twenty-five paise.]

Description of Instrument (1)	Proper Stamp Duty (2)
Exemptions (a) Deed of dower executed on the occasion of a marriage between Muhammadans. †(b) * * * B.—Revocation of. See also Trust (No. 64).	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding. *[Rupees twenty-two and fifty naye paise.]

[*] Substituted by W. B. Act XXX of 1962, S. 3 (43) (1-4-1963).

[†] Omitted, ibid.

59. SHARE WARRANTS to bearer issued under the *Companies Act, 1956. **Exemptions** Share warrant when issued by a company in pursuance of the *Companies Act, 1956 section 114 to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue of— (a) one and a half per centum of the whole subscribed capital of the company; or (b) If any company which has paid the said duty or composition in full, subsequently issued in addition to its subscribed capital, one and a half per centum of the additional capital so issued.	One and-a-half times the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.

[*] Substituted by W. B. Act XXX of 1962, S. 3 (44) (1-4-1963).

*[60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	Ten naye paise.]

[*] Inserted by W. B. Act XXX of 1962, S. 3 (45) (1-4-1963).

61. SURRENDER OF LEASE— (a) when the duty with which the lease is chargeable does not exceed seven rupees eight annas; (b) in any other case. Exemption Surrender of lease, when such lease is exempted from duty.	The duty with which such lease is chargeable. *[Rupees ten].

[*] Substituted by W. B. Act XXX of 1962, S. 3 (46) (1-4-1963).

62. TRANSFER (whether with or without consideration)— *[(a) of shares in an incorporated company or other body corporate;	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.]
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed in respect of which duty has been paid under Article No. 40 or policy of insurance,— (i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees; (ii) in any other case.	The duty with which such bond, mortgage-deed or policy or insurance is chargeable. †[Rupees fifteen.]

Description of Instrument (1)	Proper Stamp Duty (2)
(d) of any property under the Administrator-General's Act, 1913, section 25.‡	†[Rupees twenty.]
(e) of any trust property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	†[Rupees ten] or such smaller amount as may be chargeable under clauses (a) to (c) of this article.
Exemptions	
Transfer by endorsement—	
(a) of a bill of exchange, cheque or promissory note;	
(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods.	
(c) of a policy of insurance;	
(d) of securities of the Central Government.	
See also section 8.	

[°] See the Indian Stamp (Amendment) Act, 1955 (XLIII of 1955), Section 8.
[†] Substituted by W. B. Act XXX of 1962, Section 3 (47) (1-4-1963).
[‡] Now see the Administrators-General Act, 1963, S. 22.

63. **TRANSFER OF LEASE** by way of assignment, and not by way of underlease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption	
Transfer of any lease exempt from duty.	
64. **TRUST**—	
A.—Declaration of — of, or concerning, any property when made by any writing not being a Will.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument but not exceeding °[rupees twenty-five.]
B.—Revocation of — of, or concerning, any property when made by any instrument other than a Will.	The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding †[rupees twenty-five.]
See also Settlement (No. 58).	
VALUATION. See Appraisement (No. 8).	
VAKIL. See Entry as a Vakil (No. 30).	

[°] Substituted by W. B. Act XVII of 1964, Section 3 (2) (1-12-1964).
[†] Substituted by W. B. Act XXX of 1962, Section 3 (48) (1-4-1963).

65. **WARRANT FOR GOODS**, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	°[Seventy-five naye paise.]

[°] Substituted by W. B. Act XXX of 1962, Section 3 (49) (1-4-1963).

SCHEDULE II.—Enactments repealed. [Repealed by the Repealing and Amending Act, 1914 (X of 1914), Section 3 and Sch. II.]

THE [JAMMU AND KASHMIR] STAMP ACT, 1977

(ACT XL OF 1977)

[As amended by Acts upto and including J. and K. Act XV of 1960 and J. and K. Acts IX and XXV of 1962.]

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[THE] STAMP ACT, 1977 (1920 A.D.)
(ACT XL OF 1977)

[As amended by Acts upto and including J. and K. Act XV of 1960 and J. and K. Acts IX and XXV of 1962.]

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's Endorsement No. 8372, dated 11th September 1920 and State Council Resolution No. 1, dated 8th April 1925. (Notification No. 14-L/81).]

An Act to consolidate and amend the Law relating to Stamps.

Whereas it is expedient to consolidate and amend the law relating to stamps; It is hereby enacted as follows:—

CHAPTER I
PRELIMINARY

1. (i) This Act may be called the Stamp Act, 1977.

(ii) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1977.

2. **"Definitions"*.**—In this Act, unless there is something repugnant in the subject or context,—

"Banker."

(1) "banker" includes a bank and any person acting as a banker;

"Bill of exchange."

(2) "bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money;

"Bill of exchange payable on demand."

(3) "bill of exchange payable on demand" includes—

(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of ex-

change or promissory note in satisfaction of any sum of money or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods; and

(c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn;

(4) [Omitted.]

"Bond."

(5) "bond" includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

"Chargeable."

(6) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in the State when such instrument was executed or, where several persons executed the instrument at different times, first executed;

"Cheque."

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand;

(8) [Omitted.]

"Collector."

(9) "Collector" means the Deputy Commissioner of a District;

"Conveyance."

(10) "conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I;

"Duly stamped."

(11) "duly stamped", as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the State;

"Executed and execution."

(12) "executed" and "execution", used with reference to instruments, means "signed' and "signature";

"Impressed stamp."

(13) "impressed stamp" includes—

(a) labels affixed and impressed by the proper officer, and

(b) stamps embossed or engraved on stamped paper;

"Instrument."

(14) "instrument" includes every document by which any right or liability is or purports to be, created, transferred, limited, extended, extinguished or recorded;

"Instrument of partition."

(15) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and

includes also a final order for effecting a partition passed by any revenue authority or any Civil Court and an award by an arbitrator directing a partition;

"Lease."

(16) "lease" means a lease of immovable property, and includes also—

(a) a patta;

(b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immovable property;

(c) any instrument by which tolls of any description are let;

(d) any writing on an application for a lease intended to signify that the application is granted;

"Marketable security."

(16-A) "marketable security" means a security of such a description as to be capable of being sold in any stock market in India or the State or in the United Kingdom;

"Mortgage deed."

(17) "mortgage deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates to, or in favour of, another, a right over or in respect of specified property;

"Paper."

(18) "paper" includes vellum, parchment or any other material on which an instrument may be written;

"Policy of insurance."

(19) "policy of insurance" includes—

(a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;

(b) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance;

(20) [Omitted.]

"Power of attorney."

(21) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;

"Promissory note."

(22) "promissory note" means a promissory note as defined by the Negotiable Instruments Act;

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

"Receipt"

(23) "receipt" includes any note, memorandum or writing—

(a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or

(c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(d) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person; and

"Settlement."

(24) "settlement" means any non-testamentary disposition, in writing, of movable or immovable property made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose;

and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording whether by way of declaration of trust or otherwise, the terms of any such disposition.

[°] Except the definition of "Collector", all the definitions is this section are almost identical with the corresponding definitions in the Stamp Act, 1899.

CHAPTER II
STAMP DUTIES
A.—Of the Liability of Instruments to Duty.

3. Instruments chargeable with duty.—Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

(a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in the State on or after the date on which this Act comes into force;

(b) every bill of exchange payable otherwise than on demand or promissory note drawn or made out of the State on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated in the State; and

(c) every instrument (other than a bill of exchange, or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of the State on or after that day, relates to any property situate, or to any matter or thing done or to be done, in the State and is received in the State:

Provided that no duty shall be chargeable in respect of—

(1) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(2) [Omitted.]

4. Several instruments used in single transaction of sale, mortgage or settlement.—(1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of two rupees instead of the duty (if any) prescribed for it in that schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (i), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

[1899—S. 4.]

4-A. Stamp duty on lease where agreement to execute it bears the stamp duty prescribed for the lease.—Where in respect of an agreement to execute a lease or sub-lease, stamp duty has been paid of an amount which is not less than

the amount of stamp duty prescribed in Schedule I for the lease or sub-lease, a lease or sub-lease executed in pursuance of the agreement shall be chargeable with duty not exceeding one rupee instead of the duty, if any, prescribed for it in that Schedule.

5. Instruments relating to several distinct matters.—Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

[1899—S. 5.]

6. Instruments coming within several descriptions in Schedule I.—Subject to the provisions of the last preceding section, an instrument so framed, as to come within two or more of the descriptions giyen in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding two rupees a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

[1899—S. 6.]

7. [Omitted.]

8. [Omitted.]

9. Power to reduce, remit or compound duties.—The Government may, by rule or order published in the Government Gazette,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the State, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

[1899—S. 9.]

B.—Of Stamps and the mode of using them.

10. Duties how to be paid.—(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means only of stamps—

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto, as the Government may by rule direct.

(2) The rules made under sub-section (1) may, among other matters, regulate,—

(a) in the case of each kind of instrument—the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;

(c) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

[1899—S. 10.]

11. Use of adhesive stamps.—The following instruments may be stamped with adhesive stamps, namely:—

(a) instruments chargeable with the duty of one anna or half an anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange and promissory notes drawn or made out of the State;
(c) entry as an advocate or pleader on the roll of the High Court;
(d) notarial acts; and
(e) transfers by endorsement of shares in any incorporated company or other body corporate.

[1899—S. 11.]

12. Cancellation of adhesive stamps.—(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

[1899—S. 12.]

13. Instruments stamped with impressed stamps how to be written.—Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Where a stamp duty payable in respect of an instrument is made of two or more papers stamped with impressed stamp, the instrument shall be written, in such manner that some part of the writing shall, as far as possible, appear on each such paper so as to leave as few blank sheets as possible. Each blank sheet shall be dated and signed and shown as part of the instrument.

[1899—S. 13.]

14. Only one instrument to be on same stamp.—No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

[1899—S. 14.]

15. Instrument written contrary to section 13 or 14 deemed unstamped.—Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

[1899—S. 15.]

16. Denoting duty.—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the Government may by rule prescribe.

[1899—S. 16.]

C.—Of the time of Stamping Instruments.

17. Instruments executed in the State.—All instruments chargeable with duty and executed by any person in the State shall be stamped before or at the time of execution.

[Cf. 1899—S. 17.]

18. Instruments other than bills and notes executed out of the State.—(1) Every instrument chargeable with duty executed only out of the State, and not being a bill of exchange, or promissory note, may be stamped within three months after it has been first received in the State.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

[Cf. 1899—S. 18.]

19. Bills and notes drawn out of the State.—The first holder in the State of any bill of exchange payable otherwise than on demand or promissory note drawn or made out of the State shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in the State, affix thereto the proper stamp and cancel the same:

Provided that,—

(a) if, at the time any such bill of exchange or note comes into the hands of any holder thereof in the State, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the peerson and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

[Cf. 1899—S. 19.]

D.—Of valuations for Duty.

20. Conversion of amount expressed in foreign currencies.—When an instrument is chargeable with ad valorem duty in respect of any money expressed in any currency other than that of India, such duty shall be calculated on the value of such money in the currency of India according to the rate of exchange prevailing in India on the day of the date of the instrument under a Notification of the Governor-General in Council issued under sub-section (2) of section 20 of Act II of 1899.

[Cf. 1899—S. 20.]

21. Stock and marketable securities how to be valued.—Where an instrument is chargeable with ad valorem duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

[1899—S. 21.]

22. Effect of statement of rate of exchange or average price.—Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

[1899—S. 22.]

23. Instruments reserving interest.—Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

[1899—S. 23.]

23-A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.—(1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (c) of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

[1899—S. 23-A.]

24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.—Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with ad valorem duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

Explanation.—In the case of sale of a property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(1) A owes B Rs. 1,000. A sells property to B, the consideration being Rs. 500 and the release of previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

[1899—S. 24.]

25. Valuation in case of annuity, etc.—Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of ten years calculated from the date on which the first payment becomes due; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of ten years calculated from the date on which the first payment becomes due.

[1899—S. 25.]

26. Stamp where value of subject-matter is indeterminate.—Where the amount or value of the subject-matter of any instrument chargeable with ad valorem duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument

more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty,—

(a) when the lease has been granted by or on behalf of the Government, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

[1899—S. 26.]

27. Facts affecting duty to be set forth in instrument.—The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

[1899—S. 27.]

28. Direction as to duty in case of certain conveyances.—(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original

seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

[1899—S. 28.]

E.—Duty by whom payable.

29. Duties by whom payable.—In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following articles of Schedule I, namely:—

No. 2 (Administration Bond),
No. 6 (Agreement relating to Deposit of Title Deeds, Pawn or Pledge),
No. 13 (Bill of Exchange),
No. 15 (Bond),
No. 26 (Customs Bond),
No. 27 (Debenture),
No. 32 (Further Charge),
No. 34 (Indemnity Bond),
No. 40 (Mortgage Deed),
No. 49 (Promissory Note),
No. 55 (Release),
No. 57 (Security Bond or Mortgage Deed),
No. 58 (Settlement),
No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),
No. 62 (b) (Transfer of debentures being marketable securities, whether the debenture is liable to duty or not),
No. 62 (c) (Transfer of any interest secured by a bond, mortgage deed or policy of insurance),

by the person drawing, making or executing such instrument;

(b) in the case of a policy of insurance other than fire insurance—by the person effecting the insurance;

(bb) in the case of a policy of fire insurance—by the person issuing the policy;

(c) in the case of a conveyance (including a reconveyance of mortgaged property) by the grantee: in the case of lease or agreement to lease—by the lessee or intended lessee;

(d) in the case of a counterpart of a lease—by the lessor;

(e) in the case of an instrument of exchange—by the parties in equal shares;

(f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates; and

(g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by Revenue Authority or Civil Court or Arbitrator, in such proportion as such Authority, Court or Arbitrator directs.

[1899—S. 29.]

30. Obligation to give receipt in certain cases.—Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part-satisfaction of a debt any movable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire insurance, shall, within one month after re-

ceiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

[1899—S. 30.]

CHAPTER III

ADJUDICATION AS TO STAMPS

31. Adjudication as to proper stamp.—(1) When any instrument whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

[1899—S. 31.]

32. Certificate by Collector.—(1) When an instrument brought to the Collector under Section 31 is, in his opinion, one of a description chargeable with duty, and—

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse—

(a) any instrument executed or first executed in the State and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be; or

(b) any instrument executed or first executed out of the State and brought to him after the expiration of three months after it has been first received in the State.

[1899—S. 32.]

CHAPTER IV

INSTRUMENTS NOT DULY STAMPED

33. Examination and impounding of instruments.—(1) Every person having by law or consent of parties authority to receive evidence, and every person in

charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure;

(b) in the case of a Judge of the High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt, the Government may determine what offices should be public offices and who shall be deemed to be persons in charge of such public offices.

[1899—S. 33.]

34. Special provision as to unstamped receipts.—Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may, in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

[1899—S. 34.]

35. Instruments not duly stamped inadmissible in evidence, etc.—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Provided that—

(a) any such instrument not being instrument chargeable with a duty of one anna or a bill of exchange or promissory note, or acknowledgment shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty together with a penalty of five rupees, or ten times the amount of the proper duty or if deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

The deficiency in duty and penalty payable under this section shall be realised in revenue stamps;

(b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;

(c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure.

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf

of the Government or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

[1899—S. 35.]

36. Admission of instrument where not to be questioned.—Where an instrument has been admittted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

[1899—S. 36.]

37. Admission of improperly stamped instruments.—The Government may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

[1899—S. 37.]

38. Instruments impounded how dealt with.—(1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

[1899—S. 38.]

39. Collector's power to refund penalty paid under section 38, sub-section (1).—(1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

[1899—S. 39.]

40. Collector's power to stamp instruments impounded.—(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under Section 38, sub-section (2), not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, or acknowledgment, he shall adopt the following procedure:—

(a) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify, by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be;

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

[1899—S. 40.]

41. Instruments unduly stamped by accident.—If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, or acknowledgment, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that each instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

[1899—S. 41.]

42. Endorsement of instruments on which duty has been paid under section 35, 40 or 41.—(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40, or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

(b) nothing in this section shall affect the Code of Civil Procedure, Order XIII, Rule 9.

[1899—S.42.]

43. Prosecution for offence against Stamp law.—The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

[1899—S. 43.]

44. Persons paying duty or penalty may recover same in certain cases.—(1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time of such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

[1899—S. 44.]

45. Power to Government to refund penalty or excess duty in certain cases.—(1) Where any penalty is paid under section 35 or section 40, the Government may upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Government, stamp duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, it may, upon application in writing made within three months of the order charging the same, refund the excess.

[1899—S. 45.]

46. Non-liability for loss of instruments under section 38.—(1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

[1899—S. 46.]

47. Power of payer to stamp bills and promissory notes received by him unstamped.—When any bill of exchange or promissory note chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided may pay the sum payable upon such bill or note, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill or note shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, or note.

[1899—S. 47.]

48. Recovery of duties and penalties.—All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

[1899—S. 48.]

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

49. Allowance for spoiled stamps.—Subject to such rules as may be made by the Government as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto;

(c) in the case of bills of exchange payable otherwise than on demand or promissory notes—

(1) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon;

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands;

(3) the stamp used or intended to be used for any such bill of exchange, or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill or note;

(d) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning;

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose, is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

[1899—S. 49.]

50. Application for relief under section 49 when to be made.—

The application for relief under section 49 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument;

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the

execution thereof by the person by whom it was first or alone executed:

Provided that,—

(a) when the spoiled instrument has been for sufficient reasons sent out of the State, the application may be made within six months after it has been received back in the State;

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

[1899—S. 50.]

51. Allowance in case of printed forms no longer required by corporations.—The Revenue Minister or the Collector if empowered by the Revenue Minister in this behalf may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate: Provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

[1899—S. 51.]

52. Allowance for misused stamps—

(a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13,

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed and upon the instrument, if chargeable with duty, being restamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

[1899—S. 52.]

53. Allowance for spoiled or misused stamps how to be made.—In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value; or

(b) if required and he thinks fit, stamps of any other description to the same amount in value; or

(c) at his discretion, the same value in money, deducting two annas for each rupee or fraction of a rupee.

[1899—S. 53.]

54. Allowance for stamps not required for use.—When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting two annas for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

(a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and

(b) that he has paid the full price thereof; and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

[1899—S. 54.]

54-A. Allowances for stamps in denominations of annas.—Notwithstanding anything contained in section 54, when any person is in possession of a stamp or stamps in any denominations other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906, upon such person delivering up within fifteen months from the commencement of the Jammu and Kashmir Stamp (Amendment) Act, 1958, such stamp or stamps to the Collector.

55. Allowance on renewal of certain debentures.—When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Provided that the original debenture is produced before the Collector, and cancelled by him in such manner as the Government may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

(a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;

(b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;

(c) the substitution of the name of the holder at the time of renewal for the name of the original holders; and

(d) the alteration of the rate of interest or the dates of payment thereof.

[1899—S. 55.]

CHAPTER VI
REFERENCE AND REVISION

56. Control of Government and statement of case to Revenue Minister.—(1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 26 shall in all cases be subject to the control of the Government.

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Revenue Minister.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

[1899—S. 56.]

57. Statement of case by Revenue Minister to High Court.—The Revenue Minister may state any case referred to him under section 56, sub-section (2), or otherwise coming to his notice, and refer such case, with his own opinion thereon, to the High Court.

[1899—S. 57.]

58. Power of High Court to call for further particulars as to case stated.—If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

[1899—S. 58.]

59. Procedure in disposing of case stated.—(1) The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the Revenue authority by which the case was stated, a copy of such judgment under the seal of the Court and signature of the Registrar; and the Revenue authority shall, on receiving such copy, dispose of the case conformably to such judgment.

[1899—S. 59.]

60. Statement of case by other Courts to High Court.—(1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it with his own opinion thereon, for the decision of the High Court to which, if he were the Revenue Minister, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Revenue Minister and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

[1899—S. 60.]

61. Revision of certain decisions of Courts regarding sufficiency of stamps.—(1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chappter XII or Chapter XXXVI of the Code of Criminal Proccdure, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute, any person for any offence against the stamp law which the Collector considers him to have committed in respect of such instrument:

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

(5) Any other order made by a Court under the provisions of this Act shall be appealable in the ordinary way.

[1899—S. 61.]

CHAPTER VII
CRIMINAL OFFENCES AND PROCEDURE

62. Penalty for executing, etc., instrument not duly stamped.— (1) Any person—

(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange payable otherwise than on demand or promissory note without the same being duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punishable with fine which may extend to one hundred rupees or ten times the amount of the deficiency where this exceeds one hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

Illustrations.

(1) If a Hundi which ought to have been executed on a two annas stamp paper is executed on a one-anna stamp paper, the fine may extend to rupees one hundred.

(2) If a conveyance which ought to have been executed on a stamped paper of Rs. 500, is executed on a stamped paper of Rs. 300, the fine may extend to Rs. 2,000.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

[1899—S. 62.]

63. Penalty for failure to cancel adhesive stamp.—Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

[1899—S. 63.]

64. Penalty for omission to comply with provisions of section 27.— Any person who, with intent to defraud the Government,—

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act, calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

[1899—S. 64.]

65. Penalty for refusal to give receipt, and for devices to evade duty on receipts.—Any person who,—

(a) being required under section 30 to give a receipt, refuses or neglects to give the same; or

(b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

[1899—S. 65.]

66. Penalty for not making out policy, or making one not duly stamped.—Any person who—

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allows in account, any money upon, or in respect of, any such policy,

shall be punishable with fine which may extend to two hundred rupees.

[1899—S. 66.]

67. Penalty for not drawing full number of bills or marine policies purporting to be in sets.—Any person drawing or executing a bill of exchange payable otherwise than on demand or a policy of marine insurance purporting to be drawn or executed in a set of two or more and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

[1899—S. 67.]

68. Penalty for post-dating bills, and for other devices to defraud the revenue.—Any person who—

(a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents, for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or

(c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

[1899—S. 68.]

69. Penalty for breach of rule relating to sale of stamps and for unauthorised sale—

(a) Any person appointed to sell stamps who disobeys any rule made under section 74; and

(b) any person not so appointed who sells or offers for sale any stamp (other than one-anna or half-anna adhesive stamp);

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[1899—S. 69.]

70. Institution and conduct of prosecutions.—(1) No prosecution in respect of any offence punishable under this Act or the law relating to stamps heretofore in force shall be instituted without the sanction of the Collector or such other officer as the Government generally, or the Collector specially, authorises in that behalf.

(2) The Government or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

[1899—S. 70.]

71. Jurisdiction of Magistrates.—No Magistrate other than a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

[1899—S. 71.]

72. Place of trial.—Every such offence committed in respect of any instrument may be tried in any district in which such instrument is found as well as in any district in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

[1899—S. 72.]

CHAPTER VIII
SUPPLEMENTAL PROVISIONS

73. Books, etc., to be open to inspection.—Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

[1899—S. 73.]

74. Powers to make rule relating to sale of stamps.— (1) The Government shall appoint stamp vendors in every district and town.

(2) Every person wishing to sell stamps shall apply for a licence for that purpose. The stamp duty payable on such application shall be five rupees and no licence shall be in force for more than one year.

(3) The Government shall give a commission at the sanctioned rates for the time being in force on the face value of stamps to stamp vendors.

(4) The Government shall from time to time make rules and directions for the guidance of stamp vendors.

(5) No stamp vendor shall demand from a buyer more than the face value of the stamp sought to be bought.

(6) [Omitted.]

[1899—S 74.]

75. Power to make rules generally to carry out Act.—The Government may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

[1899—S. 75.]

76. Publication of rules.—(1) All rules made under this Act shall be published in the Government Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

[1899—S. 76.]

76-A. The Government may by notification in the Government Gazette delegate all or any of the powers vested in it under sections 33 (3), 45 (1) and (2), 56 (1), 70 (1) and (2), 74 and 78 to such officer or authority as may be specified in the notification.

[1899—S. 76-A.]

77. Saving as to court-fees.—Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

[1899—S. 77.]

77-A. Saving as to certain stamps.—All stamps in denomination of annas four or multiples thereof shall be deemed to be stamps of the value of twenty-five naye paise or, as the case may be, multiples thereof and shall, accordingly be valid for all the purposes of this Act.

78. Act to be translated and sold cheaply.—The Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

[1899—S. 78.]

79. [Omitted.]

SCHEDULE I

STAMP DUTY ON INSTRUMENTS

(See Section 3)

Description of Instrument (1)	Proper Stamp Duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods and other property.	Two annas.
2. ADMINISTRATION BOND, including a bond given under section 78 of the Probate and Administration Act, or section 9 or section 10 of the Succession Certificate Act—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a Bond (No. 15) for such amount.
(b) in any other case ..	Ten rupees.
3. ADOPTION DEED, that is to say, any instrument (other than a Will) recording an adoption or conferring or purporting to confer an authority to adopt.	Twenty rupees.
ADVOCATE. See Entry as an Advocate (No. 30).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Two rupees.
Exemption	
Affidavit or declaration in writing when made for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Four annas.
(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate;	Subject to a maximum of fifteen rupees, two annas for every Rs. 10,000 or part thereof of the value of the security or shares.
(c) if not otherwise provided for.	One rupee eight annas.
Exemptions	
Agreement or memorandum of Agreement—	
(a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43;	

Description of Instrument (1)	Proper Stamp Duty (2)
(b) made in the form of tenders to the Government for or relating to any loan.	
AGREEMENT TO LEASE. See Lease (No. 35).	
6 AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to— (1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or (2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt— (a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	If drawn singly. / If drawn in set of two, for each part of the set. / If drawn in set of three for each par of the set.
	Rs. A. P. / Rs. A. P. / Rs. A. P.
(i) when the amount of the loan or debt does not exceed Rs. 200	0 4 6 / 0 3 0 / 0 1 6
(ii) when it exceeds Rs. 200 but does not exceed Rs. 400	0 9 0 / 0 4 6 / 0 3 0
Do. 400 do. 600	0 13 6 / 0 7 6 / 0 4 6
Do. 600 do. 800	1 2 0 / 0 9 0 / 0 6 0
Do. 800 do. 1,000	1 6 6 / 0 12 0 / 0 7 6
Do. 1,000 do. 1,200	1 11 0 / 0 13 6 / 0 9 0
Do. 1,200 do. 1,600	2 4 0 / 1 2 0 / 0 12 0
Do. 1,600 do. 2,500	3 6 0 / 1 11 0 / 1 2 0
Do. 2,500 do. 5,000	6 12 0 / 3 6 0 / 2 4 0
Do. 5,000 do. 7,500	10 2 0 / 5 1 0 / 3 6 0
Do. 7,500 do. 10,000	13 8 0 / 6 12 0 / 4 8 0
Do. 10,000 do. 15,000	20 4 0 / 10 2 0 / 6 12 0
Do. 15,000 do. 20,000	27 0 0 / 13 8 0 / 9 0 0
Do. 20,000 do. 25,000	33 12 0 / 16 14 0 / 11 4 0
Do. 25,000 do. 30,000	40 8 0 / 20 4 0 / 13 8 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	13 8 0 / 6 12 0 / 4 8 4
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.
Exemption	
Instrument of pawn or pledge of goods if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.	Twenty-five rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit— (a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.

Description of Instrument (1)	Proper Stamp Duty (2)
(b) in any other case ..	Ten rupees.
Exemptions	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition or any apprentice, clerk or servant placed with any master to learn any profession, trade or employment.	Five rupees.
Exemption	
Instruments of apprenticeship by which a person is apprenticed by or at the charge of any public charity.	
10. ARTICLES OF ASSOCIATION OF A COMPANY—	
(a) when the authorised capital of the Company does not exceed one lakh;	Fifty rupees.
(b) in other cases	Sixty rupees.
Exemption	
Articles of any association not formed for profit and registered under section 26 of the Companies Act, 1977.	
See also Memorandum of Association of a Company (No. 39).	
11. ASSIGNMENT. See Conveyance (No. 23), Transfer (No. 62), and Transfer of lease (No. 63), as the case may be.	
AUTHORITY TO ADOPT. See Adoption Deed (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Ten rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	Twelve annas subject to a maximum of seventy-five rupees.
13. BILL OF EXCHANGE [as defined by section 2 (2)], not being a Bond, bank-note or currency note—	
(a) [Deleted.]	

Description of Instrument (1)				Proper Stamp Duty (2)		
(b) where payable otherwise than on demand, but not more than one year after date or sight—						
			Rs.	If drawn singly. Rs. A. P.	If drawn in set of two, for each part of the set Rs. A. P.	If drawn in set of three, for each par of the set. Rs. A. P.
if the amount of the bill or note does not exceed			200	0 3 0	0 2 0	0 1 0
if it exeeds Rs. 200 and does not exceed			400	0 6 0	0 3 0	0 2 0
Do.	400	do.	600	0 9 0	0 5 0	0 3 0
Do.	600	do.	800	0 12 0	0 6 0	0 4 0
Do.	800	do.	1,000	0 15 0	0 8 0	0 5 0
Do.	1,000	do.	1,200	1 2 0	0 9 0	0 6 0
Do.	1,200	do.	1,600	1 8 0	0 12 0	0 8 0
Do.	1,600	do.	2,500	2 4 0	1 2 0	0 12 0
Do.	2,500	do.	5,000	4 8 0	2 4 0	1 8 0
Do.	5,000	do.	7,500	6 12 0	3 6 0	2 4 0
Do.	7,500	do.	10,000	9 0 0	4 8 0	3 0 0
Do.	10,000	do.	15,000	13 8 0	6 12 0	4 8 0
Do.	15,000	do.	20,000	18 0 0	9 0 0	6 0 0
Do.	20,000	do.	25,000	22 8 0	11 4 0	7 8 0
Do.	25.000	do.	30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.				9 0 0	4 8 0	3 0 0
(c) where payable at more than one year after date or sight.				The same duty as a Bond (No. 15) for the same amount.		
14. [Omitted.]						
15. BOND [as defined by section 2 (5)], not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by Court-fees Act,—						
where the amount or value secured does not exceed Rs. 10;				Three annas.		
where it exceeds Rs. 10 and does not exceed Rs. 50;				Six annas.		
where it exceeds Rs. 50 and does not exceed Rs. 100;				Twelve annas.		
where it exceeds Rs. 100 and does not exceed Rs. 200;				One rupee eight annas.		
where it exceeds Rs. 200 and does not exceed Rs. 300;				Two rupees four annas.		
where it exceeds Rs. 300 and does not exceed Rs. 400;				Three rupees.		
where it exceeds Rs. 400 and does not exceed Rs. 500;				Three rupees twelve annas.		
where it exceeds Rs. 500 and does not exceed Rs. 600;				Six rupees.		
where it exceeds Rs. 600 and does not exceed Rs. 700;				Seven rupees.		
where it exceeds Rs. 700 and does not exceed Rs. 800;				Eight rupees.		
where it exceeds Rs. 800 and does not exceed Rs. 900;				Nine rupees.		
where it exceeds Rs. 900 and does not exceed Rs. 1,000;				Ten rupees.		
and for every Rs. 500 or part thereof in excess of Rs. 1,000.				Five rupees.		
See Administration Bond (No. 2), Customs Bond (No. 26), Indemnity Bond (No. 34), Security Bond (No. 57).						
Exemption						
Bond when executed by—						
any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of						

Description of Instrument (1)	Proper Stamp Duty (2)
public utility shall not be less than a specified sum per mensem.	
16. [Omitted.]	
17. CANCELLATION — Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for. See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	Ten rupees.
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by any Civil or Revenue Court, or Collector or other Revenue Officer.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase money.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, (a) either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body, (b) to a horse or mule, camel, buffalo, bullock or cow granted by its seller to the buyer. See also Letter of Allotment of Share (No. 36).	Eight annas.
20. [Omitted.]	
21. [Omitted.]	
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Twelve rupees eight annas.
23. CONVEYANCE [as defined by section 2 (10)] not being a transfer charged or exempted under No. 62—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Twelve annas.
where it exceeds Rs. 50 but does not exceed Rs. 100;	One rupee eight annas.
where it exceeds Rs. 100 but does not exceed Rs. 200;	Three rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300;	Four rupees eight annas.
where it exceeds Rs. 300 but does not exceed Rs. 400;	Six rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500;	Seven rupees eight annas.
where it exceeds Rs. 500 but does not exceed Rs. 600;	Nine rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700;	Ten rupees eight annas.
where it exceeds Rs. 700 but does not exceed Rs. 800;	Twelve rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900;	Thirteen rupees eight annas.
where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Fifteen rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000:	Seven rupees eight annas.

Description of Instrument (1)	Proper Stamp Duty (2)
°Provided that a conveyance of immovable property situated within a Municipality, Town Area or Notified Area or such other areas as the Govt. may from time to time notify, shall be chargeable with a stamp duty at three times the rates hereinbefore provided in a Municipality and at double the rates in Town Area or Notified Area or other areas notified by the Government.	
[°] Substituted by J. and K. Act XXV of 1962, Section 2 (18-7-1962).	
. [Second proviso omitted by J. and K. Act XV of 1960, Section 2 (22-3-1960).]	
Exemption	
Assignment of copyright by entry made under the Copyright Act.	
CO-PARTNERSHIP DEED. See Partnership (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee;	Twelve annas.
(ii) in any other case ..	One rupee eight annas.
Exemptions	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths, or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid,—	
(a) if the duty with which the original instrument is chargeable does not exceed one rupee;	The same duty as is payable on the original.
(b) in any other case ..	One rupee eight annas.
Exemption	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(b) in any other case ..	Ten rupees.
27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable—	
(a) by endorsement or by a separate instrument of transfer;	The same duty as a Bond (No. 15) for the same amount.
(b) by delivery ..	The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
Explanation.—The term 'Debenture' includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption	
A debenture issued by an incorporated company or other body corporate in terms of	

Description of Instrument (1)	Proper Stamp Duty (2)
a registered mortgage deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders provided that the debentures so issued are expressed to be issued in terms of the said mortgage deed. See also Bond (No. 15), and Ss. 8 and 55.	
DECLARATION OF ANY TRUST. See TRUST (No. 64).	
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	One anna.
DEPOSIT OF TITLE DEEDS. See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	
DISSOLUTION OF PARTNERSHIP. See Partnership (No. 46).	
29. DIVORCE — Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Twenty rupees.
DOWER — Instrument of. See Settlement (No. 58).	
DUPLICATE — See Counterpart (No. 25).	
30. ENTRY AS AN ADVOCATE OF THE HIGH COURT.	Two hundred and fifty rupees.*
[*] Substituted by J. and K. Act IX of 1962 (for "300 rupees") by S. 2 (1-7-1962).	
31. EXCHANGE OF PROPERTY — Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. See Copy (No. 24).	
32. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given, or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given ..	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT — Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

Description of Instrument (1)	Proper Stamp Duty (2)
HIRING AGREEMENT or agreemeent for service. See Agreement (No. 5).	
34. INDEMNITY BOND	The same duty as a Security Bond (No. 57) for the same amount.
INSPECTORSHIP DEED. See COMPOSITION DEED (No. 22).	
INSURANCE. See Policy of Insurance (No. 47).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered:
Exemption	
Lease and its counterpart executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when definite term is expressed, and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
36. LETTER OF ALLOTMENT OF SHARES, in any company or proposed company, or in respect of any loan to be raised by any company or proposed company. See also Certificate or other Document (No. 19).	Two annas.
37. LETTER OF CREDIT, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn.	Two annas.
LETTER OF GUARANTEE, See Agreement (No. 5).	
38. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a spe-	Twelve rupees eight annas.

Description of Instrument (1)	Proper Stamp Duty (2)
cified time, suspend their claims and allow the debtor to carry on business at his own discretion.	
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under section 17 of the Companies Act, 1977;	Thirty rupees.
(b) if not so accompanied.	Eighty rupees.
Exemption	
Memorandum of any association not formed for profit and registered under section 26 of the Companies Act, 1977.	
40. MORTGAGE DEED, not being an Agreement relating to Deposit of Title Deeds, **Pawn** or Pledge (No. 16), Mortgage of a Crop (No. 41) or Security Bond (No. 57).	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this Article;	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Twelve annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Twelve annas.
Exemption	
Letter of hypothecation accompanying a bill of exchange.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	One and a half anna.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One and a half anna.
(b) when the loan is payable more than three months, but not more than eighteen months, from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Three annas.
and for Rs. 100 or part thereof secured in excess of Rs. 100	Three annas.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a Protest	Three rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
(No. 50), made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public. See also Protest of Bill or Note (No. 50).	
43. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal— (a) of any goods exceeding in value twenty rupees; (b) of any stock or marketable security exceeding in value twenty rupees.	Three annas. Subject to a maximum of fifteen rupees, two annas for every Rs. 10,000 or part thereof of the value of the stock or security.
44. [Omitted.]	
ORDER FOR THE PAYMENT OF MONEY. See Bill of Exchange (No. 13).	
45. PARTITION — Instrument of — As defined by section 2 (15).	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property. N. B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than twelve annas; (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than ten times the annual revenue; (c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed twelve annas.
46. PARTNERSHIP— A.—Instrument of— (a) where the capital of the partnership does not exceed Rs. 500; (b) in any other case.	Two rupees eight annas. Fifteen rupees.
B.—Dissolution of PAWN OR PLEDGE — See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6).	Ten rupees.
47. POLICY OF INSURANCE— A.—[Omitted.] B.—FIRE INSURANCE and other classes of Insurance, not elsewhere in-	

Description of Instrument (1)	Proper Stamp Duty (2)
cluded in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage—	
(1) in respect of an original policy—	
(i) when the sum insured does not exceed Rs. 5,000;	Eight annas.
(ii) in any other case .. and	One rupee.
(2) in respect of each receipt for any payment of premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.
C.—ACCIDENT AND SICKNESS INSURANCE—	
(a) against railway accident, valid for a single journey only.	One anna.
Exemption	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(b) in any other case—for maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000, for every Rs. 1,000, or part thereof.	Two annas.
D.—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this Article—	
for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—	
(i) if drawn singly ..	Six annas.
(ii) if drawn in duplicate, for each part.	Three annas.
E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a policy of the nature specified in Division B of this Article with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.
General Exemption	
Letter of cover or engagement to issue a policy of insurance:	
Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.	
48. POWER-OF-ATTORNEY as defined by section 2 (21), not being a Proxy (No. 52),—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee.

Description of Instrument (1)	Proper Stamp Duty (2)
(b) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	Two rupees.
(c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(d) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Twenty rupees.
(e) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(f) in any other case ..	Two rupees for each person authorised.
Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	N. B.—The term "registration" includes every operation incidental to registration under the Registration Act.
Exemption	
A document whereby a claimant to have his name entered on an electoral roll or a person objecting to another person's name being brought on the electoral roll authorises another person to act for him.	
49. PROMISSORY NOTE [as defined by section 2 (22)]—	
(a) when payable on demand—	
(i) when the amount or value does not exceed Rs. 250;	One anna.
(ii) when the amount or value exceeds 250, but does not exceed Rs. 1,000;	Two annas.
(iii) in any other case ..	Four annas.
(b) when payable otherwise than on demand.	The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note.	Two rupees.
51. [Omitted.]	
52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors to the funds of any institution.	Two annas.
53. RECEIPT [as defined by section 2 (23)] for any money or other property the amount or value of which exceeds twenty rupees.	One anna.
Exemptions	
Receipt—	
(a) endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or an-	

Description of Instrument (1)	Proper Stamp Duty (2)
nuity, or other periodical payment thereby secured; (b) for any payment of money without consideration; (c) for any payment of rent by a cultivator on account of land assessed to Government revenue; (d) for pay or allowances by non-commissioned officers or soldiers of the Army when serving in such capacity, or by mounted police constables; (e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier, and serving in such capacity; (f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity; (g) given by a headman or lambardar for land revenue or taxes collected by him; (h) given for money or securities for money deposited in the hands of any banker, to be accounted for: Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for: Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.	
See also Policy of Insurance [No. 47-B (2)].	
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.
(b) in any other case ..	Fifteen rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(b) in any other case	Seven rupees eight annas.
56. [Omitted.]	
REVOCATION OF ANY TRUST OR SETTLEMENT.	
See Settlement (No. 58); Trust (No. 64).	
57. SECURITY BOND OR MORTGAGE DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by	

Description of Instrument (1)	Proper Stamp Duty (2)
a surety to secure the due performance of a contract,—	
(a) when the amount secured does not exceed Rs. 2,000;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case	Rupees fifteen.
Exemptions	
Bond or other instrument, when executed— (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem; (b) executed by persons taking advances, under the agriculturists' loans or by the sureties, as security for payment of such advances; (c) executed by officers of Government and registered candidates for the posts of cashiers and treasurers or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof; (d) executed by a guarantee in favour of the Board of Trustees under Dhan Devi Memorial Rajput Kanya Funds.	
57-A. [Deleted.]	
58. SETTLEMENT—	
A.—Instrument of (including a deed of dower)	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed twelve annas.
Exemption	
Deed of dower executed on the occasion of a marriage between Muhammadans.	
B.—REVOCATION OF—	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument of Revocation but not exceeding fifteen rupees.
See also Trust (No. 4).	
59. SHARE WARRANTS to bearer issued under the Companies Act.	One and a half times the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemption	
Share warrant, when issued by a company under the Companies Act, to have effect only upon payment, as composition for that duty, to the Collector of Stamp Revenue of— (a) one and a half per centum of the whole subscribed capital of the company, or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—one and a half per centum of the additional capital so issued.	

Description of Instrument (1)	Proper Stamp Duty (2)
59-A. SAPURDNAMA SCRIP. See Certificate (No. 19).	One anna.
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.
61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed five rupees;	The duty with which such lease is chargeable.
(b) in any other case.	Seven rupees eight annas.
Exemption	
Surrender of lease, executed by a lessee in favour of his zamindar.	
62. TRANSFER (whether with or without consideration)—	
(a) of shares in an incorporated company or other body corporate;	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage deed or policy of insurance—	
(i) if the duty on such bond, mortgage deed or policy does not exceed five rupees;	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case	Seven rupees eight annas.
(d) [Omitted.]	
(e) of any trust property without consideration from one trustee to another trustee or from a trustee to to a beneficiary.	Seven rupees eight annas or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.
Exemptions	
Transfers by endorsement—	
(a) of bill of exchange, cheque or promissory note;	
(b) ot a warrant for goods, or other mercantile document of title to goods;	
(c) of a policy of insurance;	
(d) of securities of Government of India.	
See also Section 8.	
63. TRANSFER OF LEASE by way of assignment and not by way of underlease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of consideration for the transfer.
Exemption	
Transfer of any lease exempt from duty.	
64. TRUST—	
A.—Declaration of — of, or concerning, any property when made by any writing not being a Will.	Twenty-two rupees eight annas.
B.—Revocation of — of, or concerning, any property when made by any instrument other than a Will.	Fifteen rupees.
See also Settlement (No. 58).	
Valuation. See Appraisement (No. 8).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns or the holder thereof, to the property in any goods lying in or upon any warehouse such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Six annas.

THE KERALA STAMP ACT, 1959
(KER. ACT XVII OF 1959)

[As amended by Ker. Acts XIX of 1963; XVII of 1967; XXIX of 1969; VI of 1972; XXI of 1972; VII of 1973.]

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[THE] KERALA STAMP ACT, 1959
(KER. ACT XVII OF 1959)

[28th May 1959.]

An Act to consolidate and amend the law relating to Stamps in the State of Kerala.

Whereas it is expedient to consolidate and amend the law relating to stamps in the State of Kerala;

Be it enacted in the Tenth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Kerala Stamp Act, 1959.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date* as the Government may, by notification in the Gazette, appoint.

[*] Came into force on 1st September, 1960—Ker. Gaz., 1960, Pt. I, Sec. IV, page 1.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "bond" includes—

(i) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(ii) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(iii) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another;

(b) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument chargeable under the law in force in the territories of the State of Kerala when such instrument was executed, or where several persons executed the instrument at different times, first executed;

(c) "Collector" means the Chief Officer in charge of the Revenue Administration of a district; and includes any other officer whom the Government may, by notification in the Gazette, appoint in this behalf;

(d) "conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by the Schedule;

(e) "duly stamped" as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the territories of the State of Kerala;

(f) "executed" and "execution" used with reference to instruments, mean "signed" and "signature";

(g) "Government security" means a Government security as defined in the Public Debt Act, 1944 (Central Act 18 of 1944);

(h) "impressed stamp' includes—

(i) labels affixed and impressed by the proper officer; and

(ii) stamps embossed or engraved on stamped paper;

(i) "India" means the territory of India excluding the State of Jammu and Kashmir;

(j) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded but does not include a bill of exchange, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy and receipt;

(k) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue Authority or any Civil Court and an award by an arbitrator directing a partition;

(l) "lease" means a lease of immovable property, and includes also—

(i) Marayapattom;

(ii) Kanapattom;

(iii) an agreement or other undertaking in writing not being a counterpart of a lease, to cultivate, occupy, or pay or deliver rent for immovable property;

(iv) an agreement or other undertaking in writing, executed by the renters of abkari and opium farms;

(v) any instrument by which tolls of any description are let;

(vi) any writing on an application for a lease intended to signify that the application is granted; and

(vii) a patta;

(m) "marketable security" means a security of such a description as to be capable of being sold in any stock market in India;

(n) "mortgage deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of another, a right over or in respect of specified property;

(o) "paper" includes vellum, parchment or any other material on which an instrument may be written;

(p) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;

(q) "settlement" means any non-testamentary disposition in writing, of movable or immovable property made—

(i) in consideration of marriage.

(ii) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(iii) for any religious or charitable purpose;

and includes an agreement in writing, to make such a disposition, (and where any such disposition has not been made in writing, any instrument recording whether by way of declaration, of trust or otherwise, the terms of any such disposition);

(r) "vessel" means anything made for the conveyance, by water, of human beings or property.

CHAPTER II

STAMP DUTIES

A. Of the liability of Instruments to Duty.

3. **Instruments chargeable with duty.**—Subject to the provisions of this Act and the exemptions contained in the Schedule, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefor, respectively, that is to say,—

(a) every instrument mentioned in the Schedule which, not having been previously executed by any person, is executed in the territories of the State of Kerala on or after the commencement of this Act; and

(b) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed out of the State of Kerala on or after that day relates to any property situate, or to any matter or thing done or to be done, in the territories of the State of Kerala and is received in the territories of the State of Kerala:

Provided that no duty shall be chargeable in respect of—

(1) any instrument, executed by, or on behalf of, or in favour of, the Central Government or this or any other State Government, in cases where, but for this exemption, the Central Government or the State Government, would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for sale, transfer or other disposition either absolutely or by way of mortgage or otherwise of any ship or vessel or any part, interest, share or property of or in ship or vessel.

Note.—Section 3-A charging additional stamp duty for refugee relief (which was inserted by Ker. Act VI of 1972, Section 2) omitted by Ker. Act VII of 1973, Section 2 (1-4-1973).

4. **Several instruments used in single transaction of sale, mortgage or settlement.**—(1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in the Schedule for the conveyance, mortgage, or settlement, and each of the other instruments shall be chargeable with a duty of two rupees instead of the duty, if any, prescribed for it in the Schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purpose of sub-section (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

5. **Instruments relating to several distinct matters.**—Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

6. Instruments coming within several descriptions in Schedule.—Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in the Schedule shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing contained in this Act shall render chargeable with duty exceeding °[five rupees] a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

[°] Substituted for "four rupees fifty paise" by Ker. Act 29 of 1969, Section 2 (9-9-1969).

Note.—Explanation added to this section by Ker. Act VI of 1972 with effect from 22-3-1972, omitted by Ker. Act VII of 1973, Section 3 (1-4-1973).

7. Payment of higher duty in respect of certain instruments.—(1) Notwithstanding anything contained in section 4 or 6 or in any other enactment, unless it is proved that the duty chargeable under this Act has been paid—

(a) on the principal or original instrument, as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement, other than a principal instrument or on a counterpart, duplicate or copy of any instrument, shall, if the principal or original instrument would, when received in the State, have been chargeable under this Act with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19.

(2) Notwithstanding anything contained in any enactment for the time being in force, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence unless the duty chargeable under this section has been paid thereon:

Provided that any Court, before which any such instrument, duplicate or copy is produced, may permit the duty chargeable under this section to be paid thereon and may then receive it in evidence.

8. Bonds or other securities issued on loans.—(1) Notwithstanding anything contained in this Act, any local authority raising a loan under the provisions of any law for the time being in force, by the issue of bonds or other securities other than debentures, shall, in respect of such loan, be chargeable with a duty of one per centum on the total amount of the bonds, or other securities issued by it, and such bonds or other securities need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds or other securities other than debentures of all outstanding loans of the kind mentioned therein, and all such bonds or other securities shall be valid, whether the same are stamped or not.

(3) In the case of wilful neglect to pay the duty required by this section, the Local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

9. Power to reduce, remit or compound duties.—(1) The Government may, by order published in the Gazette,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the State of Kerala, if in the opinion of the Government it is necessary in public interest so as to do, the duties with which any particular class of instruments, or any of the instruments belonging to such class or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable; and

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of bonds or other marketable securities other than debentures.

(2) Every rule or order published under clause (a) of sub-section (1) shall be laid, as soon as may be after it is published, before the Legislative Assembly.

B.—Of stamps and the mode of using them.

10. Duties how to be paid.—(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto, as the Government may by rules direct.

(2) The rules made under sub-section (1) may, among other matters, regulate,—

(a) in the case of each kind of instrument—the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used.

11. Use of adhesive stamps.—The following instruments may be stamped with adhesive stamps, namely:—

(a) instruments chargeable with the duty of *[twenty paise] and less;

*[(b) certificate of enrolment in the roll of advocates maintained by the State Bar Council;]

(c) notarial acts;

(d) instruments as the Government may, by notification in the Gazette, specify.

[*] Substituted by Ker. Act 29 of 1969, Section 3 (9-9-1969).

12. Cancellation of adhesive stamps.—(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing or in any other effectual manner.

13. Instruments stamped with impressed stamps how to be written.—Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

14. Only one instrument to be on same stamp.—No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

15. Instruments written contrary to section 13 or 14 deemed unstamped.—Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

*[**16. Denoting duty.**—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall be denoted upon such first-mentioned instrument by—

(i) the Collector if application is made in writing for the purpose and on production of both the instruments; or

(ii) by the registering officer on production of both the instruments,

by endorsement under the hand of the Collector or registering officer, as the case may be, or in such manner as the Government may by rules prescribe.]

[*] Substituted by Ker. Act 17 of 1967, Section 4 (28-8-1967).

C.—Of the time of stamping instruments.

17. Instruments executed in the State of Kerala.—All instruments chargeable with duty and executed by any person in the State of Kerala shall be stamped before or at the time of execution.

18. Instruments executed out of India.—(1) Every instrument chargeable with duty executed only out of India may be stamped within three months after it has been first received in the State of Kerala.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector who shall stamp the same, in such manner as the Government may by rules prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

19. Payment of duty on certain instruments liable to increased duty in the State of Kerala.—Where any instrument of the nature described in any article in the Schedule and relating to any property situate or to any matter or thing done or to be done in the State of Kerala is executed out of the said State and subsequently received in the said State—

(a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under the Schedule on a document of the like description executed in the State of Kerala less the amount of duty, if any, already paid on such instrument in any other State in India.

(b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in the State of Kerala for the first time at the time when it became chargeable with the higher duty, and

(c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of India and first received in the State of Kerala when it became chargeable to the higher duty aforesaid, but the provision contained in clause (a) of the said proviso shall not apply thereto.

D.—Of Valuation for duty.

20. Conversion of amount expressed in foreign currencies.—(1) Where an instrument is chargeable with ad valorem duty in respect of any money expressed in any currency other than that of India, such duty shall be calculated on the value of such money in the currency of India according to the current rate of exchange on the day of the date of the instrument.

(2) The rate of exchange prescribed by the Central Government under sub-section (2) of section 20 of the Indian Stamp Act, 1899 (Central Act II of 1899), shall be deemed to be the current rate of exchange for the conversion of any foreign currency for the purposes of calculating the duty under sub-section (1).

21. Stock and marketable securities how to be valued.—Where an instrument is chargeable with ad valorem duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value on the day of the date of the instrument.

22. Effect of statement of rate of exchange or average price.—Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

23. Instrument reserving interest.—Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

24. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.—(1) Where an instrument—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article 5 of the Schedule.

(2) A release or discharge of any such instrument shall be chargeable with the like duty.

25. How transfer in consideration of debt, or subject to future payment, etc., to be charged.—Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not such debt, money, or stock is to be deemed, the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with ad valorem duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article 16 of the Schedule.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance any unpaid mortgage money or money charged, together with the interest, if any, due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations

(1) A owes B Rs. 1,000. A sells a property to B the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

26. Valuation in case of annuity, etc.— Where an instrument is executed to secure the payment of annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act be deemed to be,—

(a) Where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained — such total amount;

(b) Where the sum payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance — the total amount which according to the terms of such instrument or conveyance will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(c) Where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance — the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

27. Stamp where value of subject-matter is indeterminate.—Where the amount or value of the subject-matter of any instrument chargeable with ad valorem duty cannot be or could not have been ascertained at the date of its execution, or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Provided that, in the case of the lease of mine in which royalty or a share of the produce is received as the rent or the part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty—

(a) when the lease has been granted by or on behalf of the Government, at such amount or value, as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(b) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:

Provided also that, where proceedings have been taken in respect of any instrument under section 31 or 39 the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

28. Facts affecting duty to be set forth in instrument.—The consideration, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Note.—See Section 71 (2) of Kerala Panchayats Act, 1960 (Ker. Act 32 of 1960), which levies a surcharge on duty payable on instruments of sale, mortgage, exchange or lease which relate to immovable property situated in the areas under Panchayats. The section was enforced on 1-1-1962.

29. Direction as to duty in case of certain conveyances.—(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-

purchaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole or any part thereof to any other person or persons and the property in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the consideration paid by such sub-purchaser without regard to the amount or value of the original consideration; and the conveyance of the residue, if any, of such property to the original purchaser shall be chargeable with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last-mentioned conveyance shall in no case be less than two rupees.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or where such duty would exceed ten rupees, with a duty of ten rupees.

E. Duty by whom payable.

30. Duties by whom payable.—In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following Articles of the Schedule, namely:—

No. 2 (Administration Bond),
No. 6 (Agreement relating to deposit of title deeds, pawn or pledge),
No. 13 (Bond),
No. 14 (Bottomry Bond),
No. 25† (Customs Bond or Excise Bond)*,
No. 30† (Further Charge),
No. 32† (Indemnity Bond),
No. 37† (Mortgage deed),
No. 48† (Release),
No. 49† [Respondentia Bond),
No. 50† (Security Bond or Mortgage deed),
No. 51† (Settlement),
No. 55 (c)† (Transfer of any interest secured by a bond or mortgage deed),

by the person drawing, making or executing such instrument;

(b) in the case of a conveyance (including a reconveyance of mortgaged property) by the grantee; in the case of a lease or agreement to lease by the lessee or intended lessee;

(c) in the case of a counterpart of lease.....by the lessor;

†(cc) in the case of a certificate of enrolment in the roll of advocates maintained by the State Bar Council.....by the advocate enrolled;

(d) in the case of an instrument exchanged.....by the parties in equal shares;

(e) in the case of a certificate of sale.....by the purchaser of the property to which such certificate relates; and

(f) in the case of an instrument of partition.....by the parties thereto in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a Revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

[*] Substituted by Ker. Act 17 of 1967, Section 5 (28-8-1967).

[†] Substituted and inserted by Ker. Act 29 of 1969, Section 4 (9-9-1969).

CHAPTER III

ADJUDICATION AS TO STAMPS

31. Adjudication as to proper stamp.—(1) When any instrument, whether executed or not and whether previously stamped or not is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty, if any, with which it is chargeable, and pays a fee of such amount (not exceeding ten rupees and not less than one rupee) as the Collector may in each case direct, the Collector shall determine the duty, if any, with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application, until such abstract and evidence have been furnished accordingly:

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding except in any enquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished, shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

32. Certificate by Collector.—(1) When an instrument brought to the Collector under section 31, is in his opinion, one of a description chargeable with duty, and

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as, with duty already paid in respect of the instrument, is equal to the duty so determined, has been paid, the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse,—

(a) any instrument executed or first executed in India and brought to him after the expiration of one month from the date of its execution, or first execution, as the case may be;

(b) any instrument executed or first executed out of India and brought to him after the expiration of three months after it has been first received in the State; or

(c) any instrument chargeable with the duty of *[twenty paise] or less than twelve naye paise when brought to him, after the execution thereof on paper not duly stamped.

[*] Substituted by Ker. Act 29 of 1969, Section 5 (9-9-1969).

CHAPTER IV

INSTRUMENT NOT DULY STAMPED

33. Examination and impounding of instruments.—(1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an Officer of Police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(b) in the case of a Judge of the High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt, the Government may determine—

(a) what offices shall be deemed to be public offices; and

(b) who shall be deemed to be persons in charge of public offices.

34. Instrument not duly stamped inadmissible in evidence, etc.—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped.

Provided that—

(a) any such instrument not being an instrument chargeable with a duty of °[twenty paise] or less than twelve naye paise shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(b) any such instrument, when presented to a Registering Officer for registration, shall be registered, if the party agrees to pay the duty and penalty due thereon as decided by the Registering Officer and pays the same within seven days from the date of such decision;

(c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government or where it bears the certificate of the Collector as provided by Section 32 or any other provisions of this Act.

[°] Substituted by Ker. Act 29 of 1969, Section 5 (9-9-1969).

35. Admission of instrument where not to be questioned.—Where an instrument has been admitted in evidence such admission shall not, except as provided in Section 59, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

36. Admission of improperly stamped instruments.—The Government may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

37. Instruments impounded how dealt with.—(1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admit such instrument in evidence or when he is a registering officer to register such instrument upon payment of a penalty as provided by section 34 or of duty as provided by section 36, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector or to such person as he may appoint in this behalf.

(2) in every other case, the person so impounding an instrument shall send it, in original to the Collector.

38. Collector's power to refund penalty paid under sub-section (1) of section 37.—(1) When a copy of an instrument is sent to the Collector under sub-section (1) of section 37, he may, if he thinks fit, refund the whole or any portion of the penalty in excess of ten rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

39. Collector's power to stamp instruments impounded.—(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under sub-section (2) of section 37, not being an instrument chargeable with a duty of *[twenty paise] or less he shall adopt the following procedure:—

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped or that it is not so chargeable, as the case may be;

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees, or if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under sub-section (2) of section 38, the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

[*] Substituted by Ker. Act 29 of 1969, Section 5 (9-9-1969).

40. Instruments unduly stamped by accident.—If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of *[twenty paise] or less is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same and the Collector is satisfied

that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 39, receive such amount and proceed as next hereinafter prescribed.

[*] Substituted by Ker. Act 29 of 1969, Section 5 (9-9-1969).

41. Endorsement of instruments on which duty has been paid under section 34, 39 or 40.—(1) When the duty and penalty, if any, leviable in respect of any instrument have been paid under section 34, section 39 or section 40, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 34 shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

(b) nothing in this section shall affect Order XIII, Rule 9 of the First Schedule to the Code of Civil Procedure, 1908.

42. Prosecution for offence against Stamp Law.—The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the law relating to stamps in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

43. Persons paying duty or penalty may recover same in certain cases.—(1) When any duty or penalty has been paid under section 34, section 36, section 39 or section 40, by any person in respect of an instrument, and by agreement or under the provisions of section 30 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

44. Power of Government or other specified authority to refund penalty or excess duty in certain cases.—(1) Where any penalty is paid under section 34 or section 39, the Government or such other authority as may be specified by Government in this behalf may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Government or such other authority specified under sub-section (1), stamp duty in excess of that which is legally chargeable has been charged and paid under section 34 or section 39, the Government or such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

45. Non-liability for loss of instruments sent under section 37.—(1) If any instrument sent to the Collector under sub-section (2) of section 37 is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

*[**45-A. Instruments undervalued how to be dealt with.**—(1) If a registering officer, while registering any instrument transferring any property has reason to believe that the value of the property or consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an inquiry in such manner as may be prescribed by rules made under this Act, by order, determine the value of the property or the consideration and the duty aforesaid; and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on payment of such duty, the Collector shall endorse a certificate of such payment on the instrument under his seal and signature.

(3) The Collector may, suo motu, within two years from the date of registration of any instrument not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration, as the case may be, and the duty payable thereon, and if, after such examination, he has reason to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty aforesaid in accordance with the procedure provided for in sub-section (2); and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on payment of such duty, the Collector shall endorse a certificate of such payment on the instrument under his seal and signature.

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3), may appeal to the District Court within whose jurisdiction the property transferred is situate.

(5) An appeal under sub-section (4) shall be filed within thirty days of the date of the order sought to be appealed against.

(6) The District Judge shall hear and dispose of the appeal in such manner as may be prescribed by rules made under this Act.]

[*] Inserted by Ker. Act 17 of 1967 (as amended by Ker. Act 21 of 1972), Section 6 (28-8-1967).

46. Recovery of duties and penalties.—All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

CHAPTER V
ALLOWANCES FOR STAMPS IN CERTAIN CASES

47. Allowances for spoiled stamps.—Subject to such rules as may be made by the Government as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 48, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto;

(c) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning;

(2) has been afterwards found unfit by reason of any error or mistake therein for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected, being effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32, that the full duty with which an instrument is chargeable has been paid, is an impressed stamp within the meaning of this section.

48. Application for relief under section 47 when to be made.—The application for relief under section 47 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (c) (5), within two months of the date of the instrument;

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument or, if it is not dated, within six months after execution thereof by the person by whom it was first or alone executed:

Provided that—

(a) when the spoiled instrument has been for sufficient reasons sent out of the State, the application may be made within six months after it has been received back in the State;

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

49. Allowance in case of printed forms no longer required by Corporations.—The Government or such other authority as may be specified in this behalf by Government may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate:

Provided that the Government or such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

50. Allowance for misused stamps.—(a) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) When any stamp used for instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13;

The Collector may, on application made within six months after the date of the instrument, or if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being restamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

51. Allowance for spoiled or misused stamps how to be made.—In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value; or

(b) if required and he thinks fit, stamps of any other description to the same amount in value; or

(c) at his discretion, the same value in money deducting six naye paise for each rupee or fraction of a rupee.

52. Allowance for stamps not required for use.—When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting six naye paise for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

(a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and

(b) that he has paid the full price thereof; and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

53. Allowances for stamps in denominations of annas.—Notwithstanding anything contained in section 52, when any person is possessed of a stamp or stamps in any denominations other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906 (3 of 1906), upon such person delivering up, within six months from the commencement of this Act, such stamp or stamps to the Collector.

CHAPTER VI

REFERENCE AND REVISION

54. Control of and statement of case to the Government or other authority specified by the Government.—(1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 27 shall in all cases be subject to the control of the Government or such authority as may be specified by Government in this behalf.

(2) If any Collector acting under section 31, section 39 or section 40, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case and refer it with his own opinion thereon, for

the decision of the Government or such other authority as may be specified by Government in this behalf.

(3) The Government or such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty, if any, in conformity with such decision.

55. Statement of case by the Government or other authority specified by the Government to High Court.—(1) The Government or such other authority as may be specified by Government in this behalf may state any case referred to it under sub-section (2) of section 54 or otherwise coming to its notice, and refer such case, with its own opinion thereon, to the High Court.

(2) Every such case shall be decided by not less than three Judges of the High Court, and in case of difference, the opinion of the majority shall prevail.

56. Power of High Court to call for further particulars as to case stated.—If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer to the case back to the authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

57. Procedure in disposing of case stated.—(1) The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar; and the authority shall, on receiving such copy, dispose of the case conformably to such judgment.

58. Statement of case by other Courts to High Court.—(1) If any Court, other than the High Court, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 34, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court.

(2) The High Court shall deal with the case as if it had been referred under section 55, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Government or such other authority specified in this behalf and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

59. Revision of certain decisions of Courts regarding the sufficiency of stamps.—(1) When any Court in the exercise of its Civil or Revenue jurisdiction or any Criminal Court in any proceeding under Chap. XII or Chap. XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp or upon payment of duty and a penalty under section 34, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 34, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument then is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector and, where the in-

strument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 41, or in section 42, prosecute any person for any offence against the stamp law which the Collector considers him to have committed in respect of such instrument:

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which. according to the determination of such Court, was payable in respect of the instrument under section 34, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purpose of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 41.

CHAPTER VII

CRIMINAL OFFENCES AND PROCEDURE

60. Penalty for executing, etc., instrument not duly stamped.—(1) Any person executing or signing otherwise than as a witness any instrument chargeable with duty without the same being duly stamped shall, for every such offence, be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 34, section 39 or section 59, the amount of such penalty shall be allowed in reduction of the fine, if any, subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

61. Penalties for failure to cancel adhesive stamp.—Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

62. Penalty for omission to comply with provisions of section 28.—Any person who, with intent to defraud the Government,—

(a) executes any instrument in which all the facts and circumstances required by section 28 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

Note.—Kerala Panchayats Act, 1960, Section 71 (2) (b) (1-1-1962), says that Section 62 shall be read as if it referred to the Panchayat as well as Government. That section enables Panchayats to levy a surcharge not exceeding 4 per cent on transactions of sales, exchanges, mortgages and leases of immovable property situated within the area of the Panchayat.

63. Penalty for devices to defraud the revenue.—Any person who, with intent to defraud the Government of duty, practices or is concerned in any act, contrivance or device not specially punishable under this Act or any other law for

the time being in force shall be punishable with fine which may extend to one thousand rupees.

64. Penalty for breach of rule relating to sale of stamps and for unauthorised sale.—

(a) any person appointed to sell stamps who disobeys and rule made under section 69, and

(b) any person not so appointed who sells or offers for sale any stamp other than a stamp of the value of *[twenty paise] or less

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[*] Substituted for 'twelve naye paise' by Ker. Act 29 of 1969, Section 5 (9-9-1969).

65. Institution and conduct of prosecutions.—(1) No prosecution in respect of any offence punishable under this Act or any enactment hereby repealed shall be instituted without the sanction of the Collector or such other officer as the Government generally, or the Collector specially authorises in that behalf.

(2) The Government, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence,

(3) The amount of any such composition shall be recoverable in the manner provided by section 46.

66. Jurisdiction of Magistrates.—No Magistrate other than a Magistrate whose powers are not less than those of a Magistrate of the First Class, shall try any offence under this Act.

67. Place of trial.—Every such offence committed in respect of any instrument may be tried in any district in which such instrument is found, as well as in any district in which such offence might be tried under the Code of Criminal Procedure, 1898.

CHAPTER VIII
SUPPLEMENTAL PROVISIONS

68. Books etc., to be open to inspection.—Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

69. Power to make rules.—(1) The Government may, by notification in the Gazette, make rules* to carry out generally the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may be made for regulating—

(a) the supply and the sale of stamps and stamped papers,

(b) the persons by whom alone such sale is to be conducted,

(c) the duties and remuneration of such persons, and

(d) the fines which shall in no case exceed five hundred rupees to be incurred on breach of any rule:

Provided that such rules shall not restrict the sale of adhesive stamp of the value of †[twenty paise] or less.

(3) All rules made under this Act shall be laid, as soon as may be, after they are made, before the Legislative Assembly while it is in session for a total period of not less than 14 days which may be comprised in one session or in two or more sessions and if, before the expiry of the said period the Legislative Assembly makes any modification in the rules or directs that any rule shall not have effect, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be.

[*] For Kerala Stamp Rules, 1960, see Ker. Gaz. No. 33 of 16-8-1960, Pt. I, Sec. (iv). Also see the Indian Stamp (Kerala) Rules, 1960—ibid, page 7.

[†] Substituted for 'twelve paise' by Act 29 of 1969, Section 5 (9-9-1969).

70. Saving as to court-fees.—Nothing contained in this Act shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

71. Saving as to certain stamp.—All stamps in denominations of annas four or multiples thereof shall be deemed to be stamps of the value of twenty-five naye paise, or as the case may be, multiples thereof and shall, accordingly, be valid for all the purposes of this Act.

72. Application of the Indian Stamp Act, 1899.—The Indian Stamp Act, 1899 (Central Act 2 of 1899), as in force in the Malabar District referred to in section 5 (2) of the States Reorganisation Act, 1956, in so far as it relates to the matter specified in Entry 44 of List III of the Seventh Schedule to the Constitution in respect of documents specified in Entry 91 of List I of the said Schedule, shall, notwithstanding anything contained in any law, extend to the whole of the State of Kerala.

73. Repeal and Savings.—The Indian Stamp Act, 1899 (Central Act 2 of 1899), in its application to the Malabar district referred to in section 5 (2) of the States Reorganisation Act, 1956 (Central Act 37 of 1956), in so far as it relates to the matter specified in Entry 44 of List III of the Seventh Schedule to the Constitution in respect of documents falling under Entry 63 of List II in the said Schedule and the Travancore-Cochin Stamp Act, 1125 (Act 1 of 1125), are hereby repealed:

Provided that such repeal shall not affect—

(a) the previous operation of the said enactments or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

THE SCHEDULE*

[*] As substituted by Ker. Acts 29 of 1969 and 6 of 1972.

Description of Instrument (1)	Proper Stamp Duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property—	
where the amount or value exceeds Rs. 20 but docs not exceed Rs. 1,00;	Twenty paise.
where it exceeds Rs. 100 but does not exceed Rs. 500;	Forty paise.
where it exceeds Rs. 500 but does not exceed Rs. 1,000:	Sixty paise.
where it exceeds Rs. 1,000;	One rupee.

Description of Instrument (1)	Proper Stamp Duty (2)
2. ADMINISTRATION BOND including a bond given under Section 291 or Section 375 of the Indian Succession Act, 1925 (Central Act XXXIX of 1925), or section 6 of the Government Savings Banks Act, 1873 (Central Act 5 of 1873).	Two rupees fifty paise for every Rs. 100 or part thereof of the amount or value secured.
3. ADOPTION DEED, that is to say, any instrument (other than a Will), recording an adoption or conferring or purporting to confer an authority to adopt.	Fifty rupees.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing. Exemptions Affidavit or declaration in writing when made— (a) as a condition of enrolment under the Air Force Act, 1950 (Central Act 45 of 1950) or Army Act, 1950 (Central Act XLVI of 1950), or the Navy Act, 1957 (Central Act LXII of 1957); or (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	Five rupees.
5. AGREEMENT OR MEMORANDUM OF AGREEMENT— (a) If relating to the sale of a bill of exchange: (b) If relating to the sale of Government security or share in an incorporated company or other body corporate; (c) If not otherwise provided for:	One rupee. One rupee for every Rs. 10.000 or part thereof of the value of the security or share. Three rupees.
6. AGREEMENT RELATING TO DEPOSIT of TITLE DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing any agreement relating to— (1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than marketable security); or (2) the pown or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt— (a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—	

	If drawn singly	If drawn in set of two for each part of the set	If drawn in set of three, for each part of the set
	Rs. p.	Rs. p.	Rs. p.
(i) if the amount secured does not exceed Rs. 500;	1 50	0 75	0 50
(ii) if it exceeds Rs. 500 but does not exceed Rs. 1,000;	5 00	2 50	1 70
(iii) if it exceeds Rs. 1,000, for every Rs. 1,000 or part thereof.	5 00	2 50	1 70
(b) if such loan or debt is repayable not more than 3 months from the date of such instrument.	Half the duty payable under clause (a) (i) or clause (a) (ii) or clause (a) (iii) for the amount secured.		

Description of Instrument (1)	Proper Stamp Duty (2)
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.	Seventy-five rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of a Court in the course of a suit—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for such amount.
(b) in any other case.	Thirty rupees.
9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No. 11).	Ten rupees.
10. ARTICLES OF ASSOCIATION OF A COMPANY.	Two hundred rupees.
11. ARTICLES OF CLERKSHIP or contract, whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in the High Court.	Three hundred and seventy-five rupees.
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition on a reference made otherwise than by the order of the Court in the course of a suit—	
(a) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for such amount.
(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000;	Thirty rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee fifty paise.
13. BOND, as defined by Section 2 (a), not being a debenture and not being otherwise provided by this Act or by the Kerala Court-fees and Suits Valuation Act, 1959 (10 of 1959) or other enactment for the time being in force.	Two rupees fifty paise for every Rs. 100 or part thereof of the amount or value secured.
Exemptions	
(a) Bail bonds and recognizances executed in criminal cases.	
(b) Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility. shall not be less than a specified sum per mensem.	
14. BOTTOMRY BOND, that is to say, any instrument whereby the master of a seagoing ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	Two rupees fifty paise for every Rs. 100 or part thereof of the amount or value secured.
15. CANCELLATION.— Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Thirty rupees.
16. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or by the Gov-	The same duty as on a Conveyance (No. 21 or 22, as the case may be) for a consideration equal to the amount of the purchase money only.

Description of Instrument (1)	Proper Stamp Duty (2)
ernment, Collector or other Revenue Officer.	
17. CERTIFICATE OR OTHER DOCUMENT evidencing the right or the title of the holder thereof or any other person either to any share, scrip or stock in or of any incorporated company or other body corporate or to become proprietor of share, scrip or stock in or of any such company or body.	Fifty paise.
18. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purpose of the charterer, whether it includes a penalty clause or not.	Five rupees.
19. CHITTY OR KURI variola where the total amount subscribed exceeds Rs. 100.	Five rupees for every Rs. 1,000 or part thereof of the total amount subscribed.
20. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debt is secured to the creditors or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence for the benefit of his creditors.	Thirty-five rupees.
21. CONVEYANCE (as defined by section 2 (d)) other than a conveyance specified in No. 22, not being a transfer charged or exempted under No. 55).	Five rupees for every Rs. 100 or part thereof of the amount or value of consideration for such conveyance.
22. CONVEYANCE (as defined by section 2 (d), not being a transfer charged or exempted under No. 55) of immovable property situated within the following Municipal Corporations and Municipalities, namely, Trivandrum, Calicut, Cochin, Quilon, Alleppey, Kottayam, Alwaye, Trichur, Palghat, Tellicherry and Cannanore.	Seven rupees fifty paise for every Rs. 100 or part thereof of the amount or value of the consideration for such conveyance.
23. COPY OR EXTRACT, certified to be true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or the duty with which it was chargeable does not exceed one rupee;	Two rupees fifty paise.
(ii) in any other case.	Five rupees.
Exemption	
Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
24. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(i) if the duty with which the original instrument was chargeable does not exceed Rs. 5;	The same duty payable on the original.
(ii) in any other case.	Five rupees.
25. CUSTOMS BOND OR CENTRAL EXCISE BOND—	
(a) where the amount does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14) for such amount.
(b) in any other case.	Thirty rupees.

Description of Instrument (1)	Proper Stamp Duty (2)
26. DELIVERY ORDER in respect of goods, that is to say, any instrument entitling any person therein named or his assigns or the holder thereof to the delivery of any goods lying in any dock or port or in any warehouse in which goods are stored or deposited on rent or hire or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein where such goods exceed in value twenty rupees.	Thirty paise.
27. DIVORCE — Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	Ten rupees.
28. CERTIFICATE OF ENROLMENT in the Roll of Advocates prepared and maintained by the State Bar Council under the Advocates Act, 1961 (Central Act 25 of 1961).	Two hundred and fifty rupees.
29. EXCHANGE OF PROPERTY—INSTRUMENT OF.	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property of greater value as set forth in such instrument.
30. FURTHER CHARGE — Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(a) when the original mortgage is one of the description referred to in clause (a) of Article 37 (i.e., with possession);	The same duty as a Conveyance (No. 21 or No. 22, as the case may be) for a consideration equal to the amount of the further charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of Article 37 (i.e., without possession)—	
(i) if at the time of execution of the instrument of further charge, possession of property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bottomry Bond (No. 14) for the amount of the further charge secured by such instrument.
31. GIFT — Instrument of, not being a settlement or Will or transfer.	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to the value of the property as set forth in the instrument.
32. INDEMNITY BOND	The same duty as a Security Bond (No. 49) for the same amount.
33. LEASE — including an under-lease or sub-lease and any agreement to let or sub-let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bottomry Bond (No. 14) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than 5 years;	The same duty as a Bottomry Bond (No. 14) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be exceeding 5 years but not exceeding 10 years;	The same duty as a Conveyance (No. 21 or 22, as the may be,) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease purports to be for a term exceeding 10	The same duty as a Conveyance (No. 21 or 22, as the may be,) for a consideration

Description of Instrument (1)	Proper Stamp Duty (2)
years but not exceeding 20 years;	equal to twice the amount or value of the average annual rent reserved.
(v) where the lease purports to be for a term exceeding 20 years but not exceeding 30 years;	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to three times the amount or value of the average rent reserved.
(vi) where the lease purports to be for a term exceeding 30 years but not exceeding one hundred years;	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to four times the amount or value of the average annual rent reserved.
(vii) where the lease purports to be for a term exceeding 100 years or in perpetuity;	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(viii) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 21 or 22. as the case may be,) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 21 or 22, as the case may be,) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that in any case where an agreement to lease is stamped with ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed the duty on such lease shall not exceed one rupee thirty naye paise.
Explanation.—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of Municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
34. LETTER OF ALLOTMENT OF SHARES in any company or proposed company or in respect of any loan to be raised by any company or proposed company.	Forty paise.
35. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall for a specified term, suspend their claims and allow the debtor to carry on business at his own discretion.	Forty rupees.
36. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by Articles of Association under the Companies Act, 1956 (Central Act I of 1956);	One hundred and fifty rupees.
(b) if not so accompanied.	Three hundred and fifty rupees.
37. MORTGAGE DEED, not being an Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 14), Mortgage of a Crop (No. 39), Respondentia Bond (No. 49) or Security Bond (No. 50)—	
(a) when possession of the property or any part of the property com-	The same duty as a Conveyance (No. 21 or 22, as the case may be,) for a consideration

Description of Instrument (1)	Proper Stamp Duty (2)
prised in such deed, is given by the mortgagor or agreed to be given;	equal to the amount secured by such deed.
(b) when possession is not given or agreed to be given as aforesaid.	Same duty as a Bottomry Bond (No. 14), for the amount secured by such deed.
Explanation	
A mortgagor who gives or have given to the mortgagee a power-of-attorney to collect rents, or gives or has given to the mortgagee a lease, of the property mortgaged or part thereof, is deemed to give possession thereof within the meaning of this article;	
(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped, for every sum secured not exceeding Rs. 1,000;	Five rupees.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Five rupees.
Exemption	
Instruments executed by persons taking advances from Government for agricultural purposes or by their sureties as security for the repayment of such advances.	
38. MORTGAGE OF A CROP, including any instruments evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than 3 months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	Fifty paise.
for every Rs. 200 or part thereof secured in excess of Rs. 200;	Fifty paise.
(b) when the loan is repayable more than three months but not more than 18 months from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Seventy-five paise.
for every Rs. 100 or part thereof secured in excess of Rs. 100;	Seventy-five paise.
39. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a Protest (No. 45), made or signed by a notary public in the execution of the duties of his office or by any other person lawfully acting as a notary public.	Five rupees
40. NOTE OR MEMORANDUM sent by a broker or agent to his principal intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees;	Seventy-five paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of fifty rupees, fifty paise for every Rs. 10,000 or part thereof of the value of the stock or security.
41. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Five rupees.
42. PARTITION — Instrument of [as defined by section 2 (k)].	The same duty as a Bottomry Bond (No. 14) for the amount of the value of the separated share or shares of the property.

Description of Instrument (1)	Proper Stamp Duty (2)
	N. B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated: Provided always that— (a) when an instrument of partition containing an agreement to divide property in severalty is executed and partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than two rupees thirty paise; (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at twenty-five times the annual revenue; (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed two rupees thirty paise.
43. PARTNERSHIP—	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 1,000;	Fifteen rupees.
(b) in any other case.	Sixty rupees.
B.—Dissolution of—	Thirty rupees.
44. POWER OF ATTORNEY [as defined by section 2 (p), not being a proxy]—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee fifty paise.
(b) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	Three rupees.
(c) when authorising not more than 5 persons to act jointly and severally in more than one transaction or generally;	Twenty rupees.
(d) when authorising more than 5 but not more than 10 persons to act jointly and severally in more than one transaction or generally;	Forty rupees.
(e) when given for consideration, and authorising the attorney to sell any immovable property:	The same duty as a Conveyance (No. 21 or 22, as the case may be) for the amount of the consideration.
(f) in any other case.	Five rupees for each person authorised.
Explanation.—For the purposes of this article, more persons than one when belonging	

Description of Instrument (1)	Proper Stamp Duty (2)
to the same firm shall be deemed to be one person.	
45. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such attesting the dishonour of a bill of exchange or promissory note.	Five rupees.
46. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	Five rupees.
47. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 21 or 22, as the case may be) for the amount of such consideration as set forth in the reconveyance.
(b) in any other case.	Seventy-five rupees in the case of immovable properties situated in areas referred to in Article 22 and fifty rupees in the case of immovable properties situated in other areas.
48. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 24), whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14), for such amount or value as set forth in the release.
(b) in any other case.	Thirty rupees.
49. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bottomry Bond (No. 14), for the amount of the loan secured.
50. SECURITY BOND OR MORTGAGE DEED, executed by way of security for the due execution of an office or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bottomry Bond (No. 14), for the amount secured.
(b) In any other case.	Thirty rupees.
Exemptions	
Bond or other instruments when executed—	
(a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility shall not be less than a specified sum per mensem;	
(b) executed by persons taking advances from Government for agricultural purposes or by their sureties as security for the repayment of such advances;	

Description of Instrument (1)	Proper Stamp Duty (2)
(c) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
51. SETTLEMENT—	
A.—Instrument of (including a deed of dower).	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed five rupees.
Exemption Deed of dower executed on the occasion of marriage between Muhammadans.	
B.—Revocation of:	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation, but not exceeding fifty rupees.
52. SHARE WARRANTS to bearer issued under the Companies Act, 1956 (Central Act I of 1956).	Ten rupees for every Rs. 100 or part thereof of the nominal amount of the share specified in the warrant.
53. SHIPPING-ORDER for or relating to the conveyance of goods on board of any vessel.	Thirty paise.
54. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed thirty rupees;	The duty with which such lease is chargeable.
(b) in any other case.	Thirty rupees.
55. TRANSFER (whether with or without consideration)—	
(a) of debentures, being marketable securities, whether the debenture is liable to duty or not;	One rupee for every one hundred rupees or part thereof of the face amount of the debenture.
(b) of debenture stocks;	One rupee for every one hundred rupees or part thereof of the face amount of the debenture stock.
(c) of any interest secured by a Bond, mortgage deed or policy of insurance—	
(i) if the duty on such a bond, mortgage deed or policy does not exceed twenty-five rupees;	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case:	Twenty-five rupees.
(d) of any property under the Administrators-General Act, 1963 (Section 22):	Forty rupees.
(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary:	Twenty-five rupees. or such smaller amount as may be charged under clauses (a) to (c) of this Article.
Exemptions Transfer by endorsement— (a) of a bill of exchange, cheque or promissory note; (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods; (c) of a policy of insurance; (d) of securities of the Central Government.	

Description of Instrument (1)	Proper Stamp Duty (2)
56. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 21 or 22, as the case may be) for a consideration equal to the amount of the consideration for the transfer.
57. TRUST—	
A. Declaration of — Of or concerning any property when made by any writing not being a Will.	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument.
B. Revocation of — Of or concerning any property when made by any instrument other than a Will.	The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument.
58. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named or his assigns or the holder thereof to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be:	One rupee fifty paise.

MAHARASHTRA AND GUJARAT

Note.—With a view to consolidate and amend the law relating to stamps and rates of stamp-duties other than those in respect of documents specified in Entry 91 of List I in the Seventh Schedule to the Constitution of India in the State of Bombay as it then existed, the Bombay Stamp Act, 1958 (Bom. LX of 1958), was enacted. It was amended in the same year by Bombay Act XCV of 1958. The said Act as amended applied to the whole State of Bombay on and from the 16th of February, 1959. The former stamp law that till then prevailed in the different areas of the State of Bombay was repealed by the said Act.

In the year 1960 out of the then existing State of Bombay a new State, to be known as the State of Gujarat, was formulated by Parliament by the Bombay Reorganisation Act, 1960. After the formulation of the new State of Gujarat, the territory that remained of the former Bombay State came to be known as the State of Maharashtra. The Bombay Reorganisation Act, 1960, came into force on the 1st day of May, 1960.

In its application to the State of Maharashtra, the Bombay Stamp Act, 1958, was adapted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960, from the 1st of May, 1960 and later it is also amended by the Maharashtra State Legislature by the Bombay Stamp (Amendment) Act, 1960 (Maha. X of 1960). The text of the Bombay Stamp Act, 1958, is given hereafter as so adapted and amended in its application to the State of Maharashtra, by Maha. Acts XXXI of 1962; X of 1965; XXIX of 1972.

State of Gujarat.— On the formation of the new State of Gujarat, the Bombay Stamp Act, 1958, as amended till the appointed day, continued to apply to the State of Gujarat. In its application to the State of Gujarat, the said Act was adapted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960 on and from the 1st of May, 1960, and later on it was also amended by the Gujarat State Legislature by the Gujarat Increase of Stamp Duties Act, 1961 (Guj. VI of 1961). These adaptations and amendments so made are given under the heading "Gujarat Amendment" after the text of the relevant sections. The Act in its application to the State of Gujarat has been further amended by Guj. Acts, VI of 1961; XVIII of 1962; XVIII of 1963; XLVI of 1963; XIX of 1965; II of 1970 and Presi. Act XII of 1971. Amendments so made are also given under sections affected.

Increase of stamp-duty in Maharashtra and Gujarat.—In its application to the States of Gujarat and Maharashtra, the amount of stamp-duty chargeable under the Bombay Stamp Act, 1958, in respect of certain instruments specified in the Sche-

dule to the Gujarat Increase of Stamp Duties Act, 1961, and Maha. Act 31 of 1962 is to be increased by ten per cent. The texts of these Acts are given below for reference.

[THE] BOMBAY STAMP (INCREASE OF DUTIES AND AMENDMENT) ACT, 1962
(MAHA. ACT XXXI OF 1962)

An Act to provide for increase in certain stamp duties and further to amend the Bombay Stamp Act, 1958.

Whereas it is expedient to provide for increase in certain stamp duties and further to amend the Bombay Stamp Act, 1958, for the purposes hereinafter appearing; It is hereby enacted in the Thirteenth Year of the Republic of India, as follows:—

1. Short title and commencement.—(1) This Act may be called THE BOMBAY STAMP (INCREASE OF DUTIES AND AMENDMENT) ACT, 1962.

(2) It shall come into force on such date° as the State Government may, by notification in the Official Gazette, appoint.

[°] 15-9-1962 is the date appointed.

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4. Surcharge on stamp duty and rounding off.—(1) Notwithstanding anything contained in the Bombay Stamp Act, 1958, the stamp duties leviable under that Act in respect of the instruments mentioned in any of the articles of Schedule I to that Act specified in the Table hereto appended shall, with commencement of the Bombay Stamp (Increase of Duties and Amendment) Act, 1962, be increased by a surcharge at the rate of ten per cent.

TABLE

Articles 1, 2 (b), 3, 5 (c) (i), †, 7, 8 (b), 9, 11, 15, 16 (a) and (b), 17, 18, 24, 26, 27 (b), 28 (b), 30, †, 37, 38, 40 (c), 41, 42, 43 (f), 44, 45 (a), 48 (a), (b), (c), (d), (e) and (g), 49, 50, 51 (b), 52 (b), 54 (b), 56, 57, 58 (b), 59 (c) and 62.

(2) The provisions of the Bombay Stamp Act, 1958, shall, save in so far as they are not inconsistent with anything contained in this section, apply for the purposes of sub-section (1).

(3) In computing the surcharge under sub-section (1), a fraction of a rupee less than five naye paise or which is not a multiple of five paise, shall be rounded off to five naye paise or to the next higher multiple of five naye paise, as the case may be.

[†] Figures 6 and 31 omitted by Maha. Act 29 of 1972, Section 3 (1-10-1972).

[THE] BOMBAY STAMP (GUJARAT INCREASE OF DUTIES AND AMENDMENT) ACT, 1963
(GUJ. ACT XVIII OF 1963)

An Act to provide for increase in certain stamp duties and further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called THE BOMBAY STAMP (GUJARAT INCREASE OF DUTIES AND AMENDMENT) ACT, 1963.

(2) It shall come into force on such date* as the State Government may, by notification in the Official Gazette appoint.

[*] 22-4-1963—See Guj. Gaz., 18-4-1963, Pt. IV-B, p. 355.

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4. Surcharge on stamp duties and rounding off.—(1) Notwithstanding anything contained in the Bombay Stamp Act, 1958, the stamp duties leviable under that Act in respect of the instruments mentioned in any of the articles of Schedule I to that Act specified in the Table hereto appended shall, with effect from commencement of the Bombay Stamp (Gujarat Increase of Duties and Amendment) Act, 1963, be increased by a surcharge at the rate of ten per cent.

TABLE

Articles 1, 2 (b), 3, 6, 7, 8 (b), 9, 11, 15, 16 (a) and (b), 17, 18, 24, 26, 27 (b), 28 (b), 30, 31, 37, 38, 40 (c), 41, 42, 44, 45 (a), 48 (a), (b), (c), (d), (e) and (g), 49, 50, 51 (b), 52 (b), 54 (b), 56, 57, 58 (b), 59 (a) and (c) and 62.

(2) The provisions of the Bombay Stamp Act, 1958, shall, in so far as they are not inconsistent with anything contained in this section, apply for the purpose of sub-section (1).

(3) In computing the surcharge under sub-section (1), a fraction of a rupee less than five naye paise or which is not a multiple of five naye paise, shall be rounded off to five naye paise or to the next higher multiple of five naye paise as the case may be.

[THE] GUJARAT INCREASE OF STAMP DUTIES ACT, 1961
(GUJ. VI OF 1961)

[31st March, 1961.]

An Act to provide for increase in certain stamp duties leviable under the Bombay Stamp Act, 1958.

It is hereby enacted in the Twelfth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called THE GUJARAT INCREASE OF STAMP DUTIES ACT, 1961.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Increase in stamp duties.—[Repealed by Guj. Act 18 of 1963, Section 5 (22-4-1963).]

3. Insertion of new section 11A in Bom. LX of 1958.—After section 11 of the principal Act, the following section shall be inserted, namely:—

"**11A. Use of adhesive stamps in respect of certain instruments.**—Notwithstanding anything contained in the other provisions of this Act, in the case of the instruments specified in the Schedule to the Gujarat Increase of Stamp Duties Act, 1961, adhesive stamps may be used to such extent as the State Government may by notification in the Official Gazette direct."

4. Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.—[Repealed by Guj. Act 18 of 1963, Section 5 (22-4-1963).]

SCHEDULE.—[Repealed by Guj. Act 18 of 1963, Section 5 (22-4-1963).]

[THE] BOMBAY STAMP ACT, 1958
(BOM. ACT LX OF 1958)

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[THE] BOMBAY STAMP ACT, 1958
(BOM. ACT LX OF 1958)

[As amended by the Bombay Act 95 of 1958, the Maharashtra Adaptation Order, 1960, Maha. Acts X of 1960; XXXI of 1962; X of 1965; and XXIX of 1972.]

[11th June, 1958.]

An Act to consolidate and amend the law relating to stamps and stamp duties in the State of Bombay.

Whereas it is expedient to consolidate and amend the law relating to stamps and rates of stamp duties other than those in respect of documents specified in Entry 91 of List I in the Seventh Schedule to the Constitution of India in the State of Bombay; It is hereby enacted in the Ninth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called THE BOMBAY STAMP ACT, 1958.

(2) It extends to the whole of the *[State of Maharashtra].

(3) It shall come into force on such date† as the State Government may, by notification in the Official Gazette, direct.

[*] Substituted for "State of Bombay" by Maha. A.L.O., 1960.

[†] The 16th February 1959—See Bom. Govt. Gaz., 1959, Pt. IV-B, page 191.

GUJARAT AMENDMENT

In sub-section (2) of section 1, for the words "State of Maharashtra", substitute the words "State of Gujarat".—Guj. A.L.O., 1960.

2. Definition.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "association" means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities;

(b) "banker" includes a bank and any person acting as a banker;

(c) "bond" includes—

(i) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(ii) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(iii) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another;

(d) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act and as applied to any other instruments, chargeable under the law in force in the State when such instrument was executed or, where several persons executed the instrument at different times, was first executed;

°[(dd) "Chief Controlling Revenue Authority" means such officer as the State Government may, by notification in the Official Gazette, appoint in this behalf for the whole or any part of the †[State of Maharashtra].]

[°] Inserted by Bom. Act XCV of 1958, Section 2 (26-11-1958).

[†] Substituted for "State of Bombay" by Maha. A.L.O., 1960.

GUJARAT AMENDMENT

For "State of Maharashtra", substitute "State of Gujarat".—Guj. A.L.O., 1960.

(e) "clearance list" means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or by-laws of the association:

Provided that no instrument shall, for the purposes of this Act, be deemed to be a clearance list unless it contains the following declaration signed by the person dealing in such transaction or on his behalf by a properly constituted attorney, namely:—

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions, °[including crossed-out transactions and transactions required to be submitted to the clearing-house in accordance with the rules/bye-laws of the association]. I/We further declare that no transaction for which an exemption is claimed under Article 5 or Article 43 in Schedule I to the Bombay Stamp Act, 1958, as the case may be, is omitted."

Explanation.—Transaction for the purpose of this clause shall include both sale and purchase;

[°] Substituted for "and that it includes all the transactions required to be submitted to the clearing-house in accordance with the rules/bye-laws of the association" by Maha. Act X of 1965, Section 2 (3-2-1965).

These words which have been substituted continue to apply in Gujarat as there is no such substitution so far in Gujarat.

(f) "Collector" means in Greater Bombay, the Collector of Bombay and elsewhere the Chief Officer in charge of the revenue administration of a district, and includes any officer whom the State Government may, by notification in the Official Gazette, appoint in this behalf;

GUJARAT AMENDMENT

Omit the words "in Greater Bombay, the Collector of Bombay and elsewhere."—Guj. A.L.O., 1960.

(g) "conveyance" includes a conveyance or sale and every instrument by which property, whether moveable or immoveable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I;

(h) "duly stamped" as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper

amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the State;

(i) "executed" and "execution" used with reference to instruments mean "signed" and "signature";

(j) "Government securities" means a Government security as defined in the Public Debt Act, 1944;

(k) "impressed stamp" includes—

(i) labels affixed and impressed by the proper officer;

(ii) stamps embossed or engraved on stamped paper;

(l) "instrument" includes every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded but does not include a bill of exchange, cheque, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy and receipt;

*[(la) "instrument of gift" includes, where the gift is of any movable property but has not been made in writing, any instrument recording whether by way of declaration or otherwise the making or acceptance of such oral gift;]

[*] Inserted by Maha. Act XXXI of 1963, Section 2 (15-9-1962).

GUJARAT AMENDMENT

Same as in Maharashtra—Guj. Act XVIII of 1963, Section 2 (22-4-1963).

(m) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty and includes—

(i) a final order for effecting a partition passed by any revenue authority or any civil court,

(ii) an award by an arbitrator directing a partition, and

(iii) when any partition is effected without executing any such instrument, any instrument or instruments signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners;

(n) "lease" means a lease of immovable property, and includes also—

(i) a patta;

(ii) a kabulayat, or other undertaking in writing, not being a counterpart of a lease to cultivate, occupy or pay or deliver rent for immovable property;

(iii) any instrument by which tolls of any description are let;

(iv) any writing on an application for a lease intended to signify that the application is granted;

(o) "marketable security" means a security of such description as to be capable of being sold in any stock market in India or in the United Kingdom;

(p) "mortgage deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers or creates to, or in favour of, another, a right over or in respect of specified property;

(q) "paper" includes vellum, parchment or any other material on which an instrument may be written;

(r) "power of attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of person executing it;

(s) "Schedule" means a Schedule appended to this Act;

(t) "settlement" means any non-testamentary disposition in writing of moveable or immoveable property made,

(i) in consideration of marriage,

(ii) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(iii) for any religious or charitable purpose, and

includes an agreement in writing to make such a disposition and where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition;

(u) "soldier" includes any person below the rank of a non-commissioned officer who is enrolled under the Army Act, 1950.

CHAPTER II

STAMP DUTIES

(A).—Of the Liability of Instruments to Duty.

3. **Instruments chargeable with duty.**—Subject to the provisions of this Act, and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in Schedule I as the proper duty therefor respectively, that is to say,—

(a) every instrument mentioned in Schedule I, which, not having been previously executed by any person, is executed in the State on or after the date of commencement of this Act;

(b) every instrument mentioned in Schedule I, which, not having been previously executed by any person, is executed out of the State on or after the said date, relates to any property situate, or to any matter or thing done or to be done in this State and is received in this State:

Provided that no duty shall be chargeable in respect of—

(1) any instrument executed by or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Bombay Coasting Vessels Act, 1838, or the Indian Registration of Ships Act, 1841.

GUJARAT AMENDMENT

After Section 3, insert the following, namely:—

[3-A. **Instruments chargeable with additional duty.**—This section charging an additional duty of ten naye paise per instrument by way of "refugee relief" was inserted in Gujarat by Presi. Act XII of 1972, with retrospective effect from 1-12-1971. Though the said Act has not been repealed, since similar section inserted in the Indian Stamp Act, 1899, has now been repealed by Act 13 of 1971 with effect from 1-4-1973, Section 3-A inserted in Gujarat, must be deemed as deleted and no longer surviving and hence text of the Act is not printed.]

4. **Several instruments used in single transaction of sale, mortgage or settlement.**— (1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of three rupees instead of the duty (if any) prescribed for it in that Schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instruments so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

5. Instruments relating to several distinct matters.—Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

6. Instruments coming within several descriptions in Schedule I — Subject to the provisions of Section 5, an instrument so framed as to come within two or more of the descriptions in Schedule I shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding three rupees a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

7. Payment of higher duty in respect of certain instruments.—(1) Notwithstanding anything contained in Section 4 or 6 or in any other enactment, unless it is proved that the duty chargeable under this Act has been paid,—

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement, other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in this State have been chargeable under this Act with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under Section 19.

(2) Notwithstanding anything contained in any enactment for the time being in force, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence unless the duty chargeable under this section has been paid thereon:

Provided that any Court before which any such instrument, duplicate or copy is produced may permit the duty chargeable under this section to be paid thereon and may then receive it in evidence.

8. Bonds or securities other than debentures issued on loans under Act IX of 1914 or other law.— (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loans Act, 1914, or of any other law for the time being in force, by the issue of bonds or securities other than debentures shall, in respect of such loan, be chargeable with a duty of one and half per centum on the total amount of such bonds or securities issued by it, and such bonds or securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds or securities from being stamped and from being chargeable with certain further duty shall apply to the bonds or securities other than debentures of all outstanding loans of the kind mentioned therein, and all such bonds or securities shall be valid, whether the same are stamped or not.

(3) In the case of wilful neglect to pay the duty required by this section the local authority shall be liable to forfeit to the State Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which such neglect continues.

9. Power to reduce, remit or compound duties.— The State Government may, by rule or order published in the Official Gazette,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the State the duties with which any instruments or any

particular class of instruments or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of bonds or marketable securities other than debentures.

(B)— Of Stamps and the mode of using them.

10. Duties how to be paid.— (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps,—

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto, as the State Government may, by rules, direct.

(2) The rules made under sub-section (1) may, among other matters, regulate.—

(a) in the case of each kind of instrument the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamps, the number of stamps which may be used.

11. Use of adhesive stamps.—The following instruments may be stamped with adhesive stamps, namely:—

(a) instruments chargeable with a duty of twenty naye paise or less;

°[(b) instruments mentioned at Articles Nos. 5 (a) to (g), 17, 29, 37, 41 (a), 42, 43, 59 (a) and 62 in Schedule I.]

[°] Substituted for original clauses (b) and (c) by Maha. Act X of 1965, Section 3 (3-2-1965).

GUJARAT AMENDMENT

Section 11 would be the same as the original one, that is to say, clauses (b) and (c) would be there, as under:—

"(b) entry as an advocate, vakil or attorney on the roll of a High Court;

(c) notarial acts."

GUJARAT AMENDMENT

Section 11A:

Is its application to the State of Gujarat, after Section 11, insert the following new section, namely:—

"**11-A. Use of adhesive stamps in respect of certain instruments.**—Notwithstanding anything contained in the other provisions of this Act, in the case of instruments specified in the Schedule° to the Gujarat Increase of Stamp Duties Act, 1961, adhesive stamps may be used to such extent as the State Government may, by notification in the Official Gazette, direct."—Guj. Act VI of 1961, S. 3.

[°] For the Schedule, see the text of Guj. Act VI of 1961 reproduced in the Note on Gujarat in Schedule I to the principal Act of 1899.

12. Cancellation of adhesive stamps.—(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in the manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

13. Instruments stamped with impressed stamps how to be written.—Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

14. Only one instrument to be on same stamp.—No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

15. Instrument written contrary to section 13 or 14 deemed unstamped.—Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

16. Denoting duty.—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments be denoted upon such first mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the State Government may, by rules, prescribe.

(C)—Of the time of stamping Instruments.

17. Instruments executed in State.—All instruments chargeable with duty and executed by any person in this State shall be stamped before or at the time of execution:

*[Provided that the clearance list described in Art. 19, 20, 21, 22 or 23 of Schedule I may be stamped by an officer authorised by the State Government by rules made under this Act, if such clearance list is submitted for stamping by the clearing-house of an Association in accordance with its rules and by-laws with the requisite amount of stamp duty, within two months from the date of its execution.]

[*] Substituted for the original Proviso by Bom. Act XCV of 1958, Section 3 (26-11-1958).

18. Instruments executed out of State.—(1) Every instrument chargeable with duty executed only out of this State may be stamped within three months after it has been first received in this State.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the State Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

19. Payment of duty on certain instruments liable to increased duty in Maharashtra State.—Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in this State is executed out of the State and subsequently received in the State,—

(a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in this State less the amount of duty, if any, already paid under any law in force in India excluding the State of Jammu and Kashmir on such instrument when it was executed;

(b) and in addition to the stamps, if any, already affixed thereto such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in this State for the first

time at the time when it became chargeable with the higher duty; and

(c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of this State and first received in this State when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto.

GUJARAT AMENDMENT

In the marginal note for "Maharashtra State", substitute "Gujarat State".—Guj. A.L.O., 1960.

(D)—Of Valuations for Duty.

20. Conversion of amount expressed in foreign currencies.—(1) Where an instrument is chargeable with ad valorem duty in respect of any money expressed in any currency other than that of India, such duty shall be calculated on the value of such money in the currency of India according to the current rate of exchange on the day of the date of the instrument.

(2) The rate of exchange for the conversion of British or any foreign currency into the currency of India prescribed under sub-section (2) of section 20 of the Indian Stamp Act, 1899, shall be deemed to be the current rate for the purpose of sub-section (1).

21. Stock and marketable securities how to be valued.—Where an instrument is chargeable with an ad valorem duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

22. Effect of statement of rate of exchange or average price.—Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement be presumed, until the contrary is proved, to be duly stamped.

23. Instruments reserving interest.—Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

24. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.—(1) Where an instrument—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer intended as a security of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (h) of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

25. How transfers in consideration of debt, or subject to future payment, etc. to be charged.— Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with ad valorem duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 16 of Schedule I.

Explanation.— In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with

the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

26. Valuation in case of annuity, etc.—Where an instrument is executed to secure the payment of an annuity or other sum payable periodically or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained, such total amount;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance, the total amount which, according to the terms of such instrument or conveyance will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance, the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

27. Stamp where value of subject-matter is indeterminate.—Where the amount or value of the subject-matter of any instrument chargeable with ad valorem duty cannot be, or in the case of an instrument executed before the commencement of this Act could not have been ascertained at the date of its execution, or, first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty,—

(a) when the lease has been granted by or on behalf of the Government at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year,

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 40, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

28. Facts affecting duty, to be set forth in instrument.—The consideration (if any) and all other facts and circumstances affecting the chargeability of any in-

strument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Note.—Stamp duty on instruments of sale, gift and usufructuary mortgage affecting immovable property situated within the jurisdiction of any Zilla Parishad executed on or after 1-8-1963 is increased by one-half per centum on the value of the property sold or gifted and in the case of mortgage on the amount secured by it—See Maha. Act 5 of 1962, S. 158 (2).

Similar increase of duty is levied on transfer of property in the City of Nagpur in favour of Nagpur Improvement Trust—See Section 77 of Nagpur Improvement Trust Act, 1936.

The said two Acts, therefore, lay down that particular as to situation of the property concerned has to be mentioned specifically in the documents.

29. Direction as to duty in case of certain conveyances.—(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others or wholly for others, is conveyed in parts by separate instruments to the persons, by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect of only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that notwithstanding anything contained in Article 25 of Schedule I the duty on such last-mentioned conveyance shall in no case be less than three rupees.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed seven rupees and fifty naye paise, with a duty of seven rupees and fifty naye paise.

(E).—Duty by whom payable.

30. Duties by whom payable.—In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following articles of Schedule I, namely:—

No. 2 (Administration Bond),

No. 6 (Agreement relating to Deposit of Title Deeds, Pawn or Pledge),

No. 13 (Bond),
No. 14 (Bottomry Bond),
No. 28 (Customs Bond),
No. 33 (Further Charge),
No. 35 (Indemnity Bond),
No. 40 (Mortgage Deed),
No. 52 (Release),
No. 53 (Respondentia Bond),
No. 54 (Security Bond or Mortgage Deed),
No. 55 (Settlement),
No. 58 (a) (Transfer of Debentures, being marketable securities whether the debenture is liable to duty or not, except debentures provided for by section 8 of the Indian Stamp Act, 1899),
No. 59 (b) (Transfer of any interest secured by a bond or mortgage deed or policy of insurance)

by the person drawing or making such instrument;

(b) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee; in the case of a lease or agreement to lease by the lessee or intended lessee;

(c) in the case of a counterpart of a lease by the lessor;

(d) in the case of an instrument of exchange by the parties in equal shares;

(e) in the case of a certificate of sale by the purchaser of the property to which such certificate relates; and

(f) in the case of an instrument of partition by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

CHAPTER III.

ADJUDICATION AS TO STAMPS

31. Adjudication as to proper stamps.— (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than fifty naye paise) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

32. Certificate by Collector.—(1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse—

(a) any instrument executed or first executed in the State and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(b) any instrument executed or first executed out of the State and brought to him after the expiration of three months after it has been first received in the State; or

(c) any instrument chargeable with the duty of twenty naye paise or less when brought to him, after the drawing or execution thereof, on paper not duly stamped.

CHAPTER IV

INSTRUMENTS NOT DULY STAMPED

33. Examination and impounding of instruments.—(1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law for the time being in force in the State when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(b) in the case of a Judge of a High Court, the duty, of examining and impounding any instrument under this section may be delegated to such officer as the Court may appoint in this behalf.

(3) For the purposes of this section, in cases of doubt,—

(a) the State Government may determine what offices shall be deemed to be public offices; and

(b) the State Government may determine who shall be deemed to be persons in charge of public offices.

34. Instruments not duly stamped inadmissible in evidence, etc.—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer unless such instrument is duly stamped:

Provided that—

(a) any such instrument not being an instrument chargeable with a duty of twenty naye paise and less shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(b) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(c) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;

(d) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

35. Admission of instrument where not to be questioned.—Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 58, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

36. Admission of improperly stamped instruments.—The State Government may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

37. Instruments impounded how dealt with.—(1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 34 or of duty as provided by section 36, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

38. Collector's power to refund penalty paid under section 37, sub-section (1).—(1) When a copy of an instrument is sent to the Collector under sub-section (1) of section 37, he may, if he thinks fit, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

39. Collector's power to stamp instruments impounded.—(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under sub-section (2) of section 37, not being an instrument chargeable with a duty of twenty naye paise, or less, he shall adopt the following procedure:—

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be.

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under sub-section (2) of section 37, the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

40. Instruments unduly stamped by accident.—If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of twenty naye paise or less is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 39, receive such amount and proceed as next hereinafter prescribed.

41. Endorsement of instruments on which duty has been paid under section 34, 39 or 40.—(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 34, section 39 or section 40, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 34, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

(b) nothing in this section shall affect the provisions of Rule 9 of O. 13 in Schedule I of the Code of Civil Procedure, 1908.

42. Prosecution for offence against stamp law.—The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

43. Persons paying duty or penalty may recover same in certain cases.—(1) When any duty or penalty has been paid under section 34, section 36, section 39 or section 40, by any person in respect of an instrument, and by agreement or under the provisions of section 30 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of

providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

44. Power to Revenue authority to refund penalty or excess duty in certain cases.—Where any penalty is paid under section 34 or section 39, the Chief Controlling Revenue Authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue Authority stamp duty in excess of that which is legally chargeable has been charged and paid under section 34 or section 39, such authority may, upon application in writing made by the party concerned within three months from the date of receipt of the order charging the same, refund the excess.

GUJARAT AMENDMENT

In Section 44, in sub-section (2), for the words and figures "under section 34", substitute the words and figures "under section 32, section 34."—Guj. Act XIX of 1965, Section 2 (18-6-1965).

45. Non-liability for loss of instruments sent under section 37.—(1) If any instrument sent to the Collector under sub-section (2) of section 37, is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

46. Recovery of duties and penalties.—All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and the sale of the moveable property of the person from whom the same are due, or as an arrear of land revenue.

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES

47. Allowance for spoiled stamps.—Subject to such rules as may be made by the State Government as to the evidence to be required, or the inquiry to be made, the Collector may on application made within the period prescribed in section 48, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part but which is not signed or executed by any party thereto;

(c) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning;

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot

be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.— The certificate of the Collector under Section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

48. Application for relief under Section 47 when to be made.— The application for relief under Section 47 shall be made within the following period, that is to say,—

(1) in the cases mentioned in clause (c) (5), within two months of the date of the instruments:

(2) in the case of a stamped paper in which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that,—

(a) when the spoiled instrument has been for sufficient reasons sent out of this State, the application may be made within six months after it has been received back in this State;

(b) when, from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument,

49. Allowance in case of printed forms no longer required by Corporations.— The Chief Controlling Revenue Authority or the Collector if empowered by the Chief Controlling Revenue Authority in this behalf may without limit of time make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate: provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

50. Allowance for misused stamps.— (1) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary or has inadvertently used any stamp for an instrument not chargeable with any duty, or

(2) when any stamp used for an instrument has been inadvertently rendered useless under Section 15, owing to such instrument having been written in contravention of provisions of Section 13;
the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

51. Allowance for spoiled or misused stamps how to be made.—In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value; or.
(b) if required and he thinks fit, stamps of any other description, to the same amount in value; or,
(c) at his discretion, the same value in money, deducting ten naye paise for each rupee or fraction of a rupee.

52. Allowance for stamps not required for use.— When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting ten naye paise for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

(a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and
(b) that he has paid the full price thereof; and
(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

*[**52-A. Allowances for stamps in denominations of annas.**—Notwithstanding anything contained in section 52, when any person is possessed of a stamp or stamps in any denominations, other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906, upon such person delivering up, within six months from the commencement of this Act such stamp or stamps to the Collector.]

[*] Inserted by Bom. Act XCV of 1958, Section 4 (26-11-1958).

CHAPTER VI
REFERENCE AND REVISION

53. Control of and statement of case to Chief Controlling Revenue Authority.— (1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 27 shall in all cases be subject to the control of the Chief Controlling Revenue Authority.

(2) If any Collector, acting under section 31, section 39 or section 40, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue Authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

GUJARAT AMENDMENT

In Section 43, is sub-section (1), for the words "Chapter IV and Chapter V", substitute the words "Chapter III, Chapter IV and Chapter V".—Guj. Act XIX of 1965, Section 3 (18-6-1965).

54. Statement of case by Chief Controlling Revenue Authority to High Court.—(1) The Chief Controlling Revenue Authority may state any case referred to it under sub-section (2) of section 53, or otherwise coming to its notice and refer such case, with its own opinion thereon, to the High Court.

(2) Every such case shall be decided by not less than three Judges of the High Court and in case of difference, the opinion of the majority shall prevail.

GUJARAT AMENDMENT

(i) In Section 54, after sub-section (1), insert the following, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), any person aggrieved by the decision of the Chief Controlling Revenue Authority under section 53 regarding the amount of duty with which any instrument is chargeable may, if the amount of duty payable as a result of such decision in a case where the instrument is not charged with any duty or the amount required to make up such duty in a case where the instrument is charged with insufficient duty, exceeds rupees two thousand, by application presented within a period of sixty days from the date of such decision and accompanied by a fee of rupees one hundred, require the Chief Controlling Revenue Authority to draw up a statement of the case and refer it to the High Court and the Chief Controlling Revenue Authority shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Chief Controlling Revenue Authority may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days."

(ii) After sub-section (2), insert the following, namely:—

"(3) The costs of any reference to the High Court made under sub-section (1A) which shall not include the fee for making the reference shall be in the discretion of the High Court."—Guj. Act XIX of 1965, Section 4 (18-6-1965).

55. Power of High Court to call for further particulars as to case stated.—If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

56. Procedure in disposing of case stated.—(1) The High Court upon hearing of any such case shall decide the question raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The High Court shall send to the Revenue Authority, by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue Authority shall, on receiving such copy, dispose of the case conformably to such judgment.

GUJARAT AMENDMENT

In Section 56, substitute sub-section (2):—

"(2) The High Court shall send a copy of its judgment under the seal of the Court and the signature of Registrar to the Chief Controlling Revenue Authority and the amount of duty chargeable on the instrument in respect of which the reference was made shall be in accordance with such agreement."—Guj. Act XIX of 1965, Section 5 (18-6-1965).

57. Statement of case by other Courts to High Court.—(1) If any Court, other than the High Court, feels doubt as to the amount of duty to be paid in respect of any instrument under clause (a) of the proviso to section 34, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court.

(2) The High Court shall deal with the case as if it had been referred under section 54, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue Authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) Reference made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

58. Revision of certain decisions of Courts regarding the sufficiency of stamps.—(1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 34, the Court to which appeals lie from, or references are made by, such first-mentioned Court, may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 34, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 41, or in section 42, prosecute any person for any offence against the stamp law which the Collector considers him to have committed in respect of such instrument:

Provided that—

(a) no such prosecution shall be instituted where the amount including duty and penalty, which, according to the determination of such Court, was payable in respect of the instrument under section 34, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty,

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 41.

CHAPTER VII

OFFENCES AND PROCEDURE

59. Penalty for executing, etc., instrument not duly stamped.—(1) Any person executing or signing otherwise than as a witness any instrument chargeable with duty without the same being duly stamped shall, on conviction for every such offence, be punished with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 34, section 39 or section 58, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company shall, on conviction, be punished with fine which may extend to five hundred rupees.

60. Penalty for making false declaration on clearance list.—Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

61. Penalty for failure to cancel adhesive stamp.—Any person required by section 12 to cancel an adhesive stamp, fails to cancel such stamp in the manner prescribed by that section, he shall, on conviction, be punished with fine which may extend to one hundred rupees.

62. Penalty for omission to comply with provisions of section 28.—Any person who, with intent to defraud the Government,—

(a) executes any instrument in which all the facts and circumstances required by section 28 to be set forth in such instrument are not fully and truly set forth, or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act,

shall, on conviction, be punished with fine which may extend to five thousand rupees.

GUJARAT AMENDMENT

After Section 62, insert the following sections, namely:—

"**62-A. Penalty for breach of provisions of section 68, sub-section (2).**—Any person who commits a breach of the provisions of sub-section (2) of section 68 shall, on conviction, be punished—

(i) for a first offence with fine which may extend to five hundred rupees;

(ii) for a second offence, with fine which may extend to one thousand rupees, but which shall not be less than 200 rupees; and

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees.

62-B. Non-disclosure of information by a public servant.—(1) All particulars contained in any documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before any Criminal Court), shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If as provided in sub-section (3) any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine, or with both.

(3) Nothing contained in this section shall apply to the disclosure—

(a) of any such particulars in respect of any such documents, evidence, affidavit or deposition for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act; or

(b) of any such particulars to the State Government or to any person acting in the execution of this Act, for the purposes of carrying out the object of this Act; or

(c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or

(e) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Stamp Department to any person or persons appointed as Commissioners under the Public Servants (Inquiries) Act, 1850, or to any officer otherwise appointed to hold such

inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or

(f) of such particulars to an officer of the Central Government or State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it."—Guj. Act XIX of 1965, Section 6 (18-6-1965).

63. Penalty for breach of rule relating to sale of stamps and for unauthorised sale.—

(a) Any person appointed to sell stamps who disobeys any rule made under Section 69; and

(b) any person not so appointed who sells or offers for sale any stamp *[(other than a ten naye paise or five naye paise adhesive stamp)],

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

[*] Inserted by Bom. Act XCV of 1958, Section 5 (26-11-1958).

64. Institution and conduct of prosecutions.—(1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as the State Government generally, or the Collector specially, authorizes in that behalf.

(2) The Chief Controlling Revenue Authority or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by Section 46.

65. Jurisdiction to try offences.—No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence under this Act.

GUJARAT AMENDMENT

Omit "a Presidency Magistrate, or"—Guj. A.L.O., 1960.

Note.—Gujarat Act XIX of 1961 has almost given to Ahmedabad the status of a Presidency town. City Magistrates in Ahmedabad have been conferred the powers and jurisdiction of a Presidency Magistrate.

66. Place of trial.—Every such offence committed in respect of any instrument may be tried in any area in which instrument is found as well as in any area in which such offence might be tried under the Code of Criminal Procedure, 1898.

CHAPTER VIII
SUPPLEMENTAL PROVISIONS

67. Books, etc. to be open to inspection.—Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings and to take such notes and extracts as he may deem necessary without fee or charge.

68. Collector's power to authorise officer to enter premises and inspect certain documents.—The Collector may, where he has reason to believe that all or any of the instruments specified in Articles 5, 19, 20, 21, 22, 23 and 43 of Schedule I have not been charged at all or incorrectly charged with duty leviable under this Act, authorize in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents or proceedings relating to or in connection with any such instrument are kept and to inspect them and to take such notes and extracts as such officer deems necessary. Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall at all reasonable times permit the officer

authorized by the Collector to inspect them and take the notes and extracts as he may deem necessary.

GUJARAT AMENDMENT

For Section 68, substitute the following:—

"**68. Collector's power to authorise officer to enter premises and inspect certain documents.**—(1) The Collector may, where he has reason to believe that all or any of the instruments specified in Schedule I have not been charged at all or incorrectly charged with duty leviable under this Act, authorise in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents, or proceedings relating to or in connection with any such instrument are kept and to inspect them, and to take such notes and extracts as such officer deems necessary, and if necessary, to seize them and to impound them under section 33.

(2) Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall, when so required by the officer authorised under sub-section (1), produce them before such officer and at all reasonable times permit such officer to inspect them and take the notes and extracts as he may deem necessary."—Guj. Act XIX of 1965, Section 7 (18-6-1965).

69. Power to make rules relating to sale of stamp.—The State Government may make rules for regulating—

(a) the supply and sale of stamps and stamped papers,

(b) the persons by whom alone such sale is to be conducted, and

(c) the duties and remuneration of such persons.

*[Provided that such rules shall not restrict the sale of ten naye paise or five naye paise adhesive stamps.]

[*] Added by Bom. Act XCV of 1958, Section 6 (26-11-1958).

70. Power to make rules generally to carry out purpose of Act.—The State Government may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

71. Publication of rules.—(1) All rules made under this Act shall be published in the Official Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

72. Delegation of certain powers.—The State Government may by notification in the Official Gazette delegate—

(a) all or any of the powers conferred on it by sections 2 (f), 33 (3) (b), 64, 69 and 75 to the Chief Controlling Revenue Authority; and

(b) all or any of the powers conferred on the Chief Controlling Revenue Authority by sections 44, 53 (1) and 64 (2) to such subordinate Revenue Authority as may be specified in the notification.

73. Saving as to court-fees.—Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

*[**73-A. Use of former State stamps permissible for certain period to be notified.**—During the period commencing on the 1st day of May 1960 and ending on the 31st day of March 1962 or such further period as the State Government may by notification in the Official Gazette specify and notwithstanding anything contained in this Act or the rules made thereunder, any stamp whether adhesive or impressed issued by the Government of Bombay before the 1st day of May 1960 may also be used in the State for the purposes of this Act as if it were duly issued by the Government of Maharashtra.]

[*] Inserted by Maha. A.L.O., 1960.

GUJARAT AMENDMENT

Section 73-A inserted by Guj. A.L.O., 1960, is the same as above.

*[73-B. **Use of Bombay Government stamps by Maharashtra Government for certain period.**—During the period commencing on the 1st day of May, 1960 & ending on the 31st day of March, 1962, or such further period as the State Government may by notification in the Official Gazette specify, and notwithstanding anything contained in this Act or the rules made thereunder, any stamp whether adhesive or impressed bearing the words "Bombay" or "Bombay State" issued by the Government of Maharashtra during the period aforesaid, may also be used for the purposes of this Act, as if it were duly issued by the Government of Maharashtra.]

[*] Inserted by Maha. A.L.Os., 1960 and 1961.

74. Act not applicable to rates of stamp duty on bills of exchange, etc.—For the avoidance of doubt, it is hereby declared that nothing in this Act shall apply to rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

75. Act to be translated and sold cheaply.—The State Government shall make provision for the sale of translation of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding twenty-five naye paise per copy.

76. Repeal of enactments.—(1) The enactments specified in column 3 of Schedule II hereto annexed shall be repealed in the manner and to the extent specified in column 4 thereof:

Provided that the repeal hereby made shall not affect—

(i) any right, title, obligation, or liability already acquired, accrued or incurred or anything done or suffered,

(ii) any legal proceeding or remedy in respect of any such right, title, obligation or liability,

under the provisions of the enactments hereby repealed and any such proceeding may be instituted, continued and disposed of and any such remedy may be enforced as if this Act had not been passed.

(2) Any appointment, notification, notice, order, rule or form made or issued under any of the enactments hereby repealed shall be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue in force unless and until it is superseded by an appointment, notification, notice, order, rule or form made or issued under this Act.

(3) All stamps in denominations of annas four or multiples thereof shall be deemed to be stamps of the value of twenty-five naye paise or, as the case may be, multiples thereof and valid accordingly.

SCHEDULE I

STAMP DUTY ON INSTRUMENTS

(See Section 3)

Description of Instrument (1)	Proper Stamp Duty (2)
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amounts or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Ten naye paise.

Description of Instrument (1)	Proper Stamp Duty (2)
2. ADMINISTRATION-BOND, including a bond given under the Indian Succession Act, 1925, or Section 6 of the Government Savings Banks Act, 1873,—	
(a) where the amount does not exceed Rs. 1,000 ..	The same duty as a Bond (No. 13) for such amount.
(b) in any other case ..	Twenty rupees.*
[*] Substituted for Rs. 15 by Maha. Act 29 of 1972, S. 2 (i) (1-10-1972).	
3. ADOPTION DEED (that is to say, any instrument other than a Will) recording an adoption or conferring or purporting to confer an authority to adopt.	Thirty rupees.
* * * * Omitted by Maha. Act 10 of 1965, S. 4 (13-2-1965).	
GUJARAT AMENDMENT	
ADVOCATE, See Entry as an Advocate (No. 31).	
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Three rupees and fifty naye paise.*
Exemptions	
Affidavit or declaration in writing when made—	
(a) as a condition of enrolment under the Army Act, 1950 or the Air Force Act, 1950;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
[*] Substituted by Maha. Act 31 of 1962, S. 3 (i) (15-9-1962). Same amendment in Gujarat made by Guj. Act 18 of 1963, S. 3 (i) (22-4-1963).	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(a) if relating to the sale of a bill of exchange;	Fifty naye paise.*
(b) if relating to the purchase or sale of a Government security;	Subject to a maximum of forty rupees twenty-five naye paise* for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
(c) if relating to the purchase or sale of shares, scrips, stocks, bonds, debentures, debenture stocks or any other marketable security of a like nature in or of any incorporated company or other body corporate—	
(i) when such agreement or memorandum of an agreement is with or through a member or between members of Stock Exchange, recognised under the Securities Contracts (Regulation) Act, 1956;	Fifteen naye paise for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
(ii) in other cases;	Fifty naye paise* for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
(d) if relating to the purchase or sale of cotton;	*Twenty-five naye paise for every unit of transaction or part thereof.

Description of Instrument (1)	Proper Stamp Duty (2)
(e) if relating to the purchase or sale of bullion or species:	†[(a) Ten naye paise for every unit of 10 kilograms of silver or part thereof; (b) Forty naye paise for every unit of 1 kilogram of gold or part thereof; (c) Seventy-five naye paise for every unit of 250 sovereigns or part thereof.]
(f) if relating to purchase or sale of oil-seeds;	†[Such rate not exceeding— (i) twenty naye paise for every 5,000 kilograms of oilseeds or part thereof where the unit is 5,000 kgs. or (ii) forty naye paise for every 10,000 kilograms of oilseeds, or part thereof, where the unit is 10,000 kilograms; or (iii) one rupee for every 15,000 kgs. of oilseeds or part thereof, where the unit is 25.000 kgs. as may be specified by the State Government by notification in the Official Gazette;]
(g) if relating to the purchase or sale of yarn of any kind, non-mineral oils or spices of any kind;	Such rate not exceeding twenty-five naye paise° for every Rs. 2,500 or part thereof of the value of yarn of any kind, non-mineral oils or spices of any kind, as may be specified by the State Government by notification in the Official Gazette.
(h) if not otherwise provided for	Three rupees.
Exemptions	
Agreement or Memorandum of Agreement,— (a) for or relating to the purchase or sale of goods or merchandise exclusively, not being an agreement or memorandum of agreement chargeable under entry (d), entry (e), entry (f), or entry (g) of this article or a note or memorandum chargeable under Article 43; (b) made in the form of tenders to the Central Government for or relating to any loan; (c) made in respect of the purchase or sale of a Government security or of a share, scrip, stock, bond, debenture stock or other marketable security of a like nature in or of any incorporate company or other body corporate, or of cotton, or of bullion or specie, or of oilseeds or of yarn of any kind, non-mineral oils or spices of any kind, an entry relating to which is required to be made in a clearance list described in Article 19, 20, 21, 22 or 23, as the case may be.	
‡[Explanation.—For the purposes of entry (d) of this Article, unit of transaction means the quantity of cotton weighing [approximately 4,500 kilograms]§]	

[°] Substituted for former entries by Maha. Act 31 of 1962, Section 3 (2) (15-9-1963).

[†] Substituted, ibid.

[‡] Substituted for original Explanation by Bom. Act XCV of 1958, Section 7 (26-11-1958).

[§] Substituted by Maha. Act 31 of 1962, Section 3 (2) (ix) (15-9-1962).

GUJARAT AMENDMENT

(i) In its application to the State of Gujarat the Stamp Duty on every agreement or memorandum of agreement chargeable under Art. 5 is to be increased by ten per cent.—Guj. Act VI of 1961, Section 2 and Schedule (1-4-1961).

(ii) (a) Amendments in entries (a) and (b) same as in Maharashtra;

(b) In entry (c) (i), for 'fifteen naye paise', words 'twenty naye paise' substituted; amendment in (c) (ii) same as in Maharashtra;

(c) amendments in entries (d), (e), (f) and (h) and Explanation same as in Maharashtra;

(d) in entry (g) in column 2, substitute as follows:—

(1) In the case of yarn and species such rate not exceeding twenty-five naye paise for every Rs. 2,500 or part thereof of the value of yarn of any kind or species of any kind as may be specified by the State Government by notification in the Official Gazette.

(2) In the case of groundnut oil or any other non-mineral oil such rate not exceeding

(i) ten naye paise for every unit of 100 tins of such oil or part thereof, where the unit of transaction is 100 tins, each containing a quantity of oil weighing approximately 16.50 kg.; or

(ii) twenty-five naye paise for every 5,000 kgs. of such oil or part thereof, where the unit is 5,000 kgs.; or

(iii) fifty naye paise for every 10,000 kgs. of such oil or part thereof where the unit is 10,000 kgs.; or

(iv) one rupee and twenty-five naye paise for every 25,000 kgs. of such oil or part thereof, where the unit is 25,000 kgs,

as may be specified by the State Government by notification in the Official Gazette.—Guj. Act 18 of 1963, Section 3 (2) (22-4-1963).

(iii) In entry (d), for "sale of cotton", read "sale of cotton including cotton goods or kapas (unginned cotton)"—Guj. Act 46 of 1963, S. 2 (1) (ii) (5-11-1963).

(iv) In entry (c) (i), in column 2, substitute—

In case of forward contracts relating to the sale or purchase of securities—

(a) where the value of the security at the time of its purchase or sale, as the case may be, does not exceed Rs. 2,500, twenty paise.

(b) where such value exceeds Rs. 2,500, thirty-five paise for every Rs. 5,000 or part thereof—Guj. Act 19 of 1965, Section 8 (18-8-1965).

Description of Instrument (1)	Proper Stamp Duty (2)
AGREEMENT TO LEASE, See Lease (No. 36).	
6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE. that is to say, any instrument evidencing an agreement relating to— (1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or (2) the pawn or pledge of moveable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt— (a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement,—	
if the amount of loan does not exceed Rs. 500 ..	Rs. nP. 7.50*
if it exceeds Rs. 500 and does not exceed Rs. 1,000 ..	15.00*